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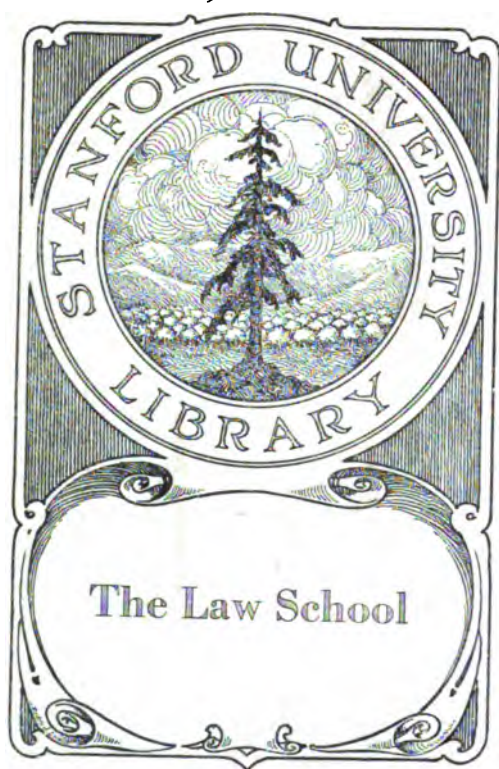
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Miss M. C. C.





THE STATE OF OHIO.

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GENERAL AND LOCAL LAWS

AND

JOINT RESOLUTIONS,

PASSED BY THE

SIXTIETH GENERAL ASSEMBLY,

*AT THE ADJOURNED SESSION,*

Begun and held at the City of Columbus, January 2, A. D. 1873, and in the 71st  
Year of said State.

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VOLUME LXX.

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# GENERAL LAWS:

## AN ACT

To amend section twenty-seven of an act relating to Roads and Highways, as amended by the act passed April 12, 1870. [O. L., vol. 67, page 45.]

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section twenty-seven of the act entitled "An act relating to roads and highways," passed March 9, 1868, as amended by the act passed April 12, 1870, be so amended as to read as follows:

Section 27. That any person or persons who shall receive a certificate, as provided for in the foregoing section, shall present the same to the township trustees of the proper township, at any regular or called session of said trustees, within twelve months after the taking and carrying away of such timber, stone or gravel, and the trustees being satisfied that the amount as aforesaid is just and equitable, shall cause the same to be paid out of the fund hereinafter provided for: Provided, that said certificate, so allowed and paid by the trustees aforesaid, shall not exceed twenty-five dollars to any road district, per annum; that any greater amount that may be presented, shall be examined, and if allowed, shall be certified over to the county commissioners of the proper county, with their accompanying vouchers, to be allowed by them, if in their opinion the same is just and equitable; and the township trustees are hereby authorized to levy, annually, upon the taxable property of their respective townships, in addition to the taxes now authorized by law, a tax sufficient to pay such certificates, which shall be certified, assessed and collected as other township taxes.

Certificates  
for payment  
of stone,  
timber, &c.

SEC. 2. That said original section twenty-seven be and the same is hereby repealed. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed January 6, 1873.

## AN ACT

To authorize an increase in the number of Trustees of Colleges and Universities, and to repeal an act therein named.

Number of trustees may be increased to twenty-four.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the board of trustees of any college or university now existing by virtue of any act of incorporation or law, or which may hereafter become incorporated under the laws of Ohio, are hereby authorized to increase the number of trustees provided for in such act of incorporation or law, to any number, not greater than twenty-four. The provisions of this act shall also apply to all academies, seminaries and institutes, not originally incorporated as colleges or universities, but which have since become such under the laws of this state.

SEC. 2. The act to authorize an increase in the number of trustees of colleges and universities, passed and took effect April 13, 1865, (S. & S., page 106,) is hereby repealed.

SEC. 3. This act shall take effect on its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed January 11, 1873.

## AN ACT

To amend sections four hundred and eighty, four hundred and eighty-one, and four hundred and eighty-two of the Municipal Code.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That sections four hundred and eighty, four hundred and eighty-one, and four hundred and eighty-two of the act entitled "An act to provide for the organization and government of municipal corporations," passed May 7, 1869 (66 O. L., 149,) be amended so as to read as follows:

Change of boundaries in certain cases.

Section 480. If the limits of any corporation do not comprise the whole of any established township, or if by change of the limits of such corporation, or otherwise, they include territory lying in more than one township, and the council of such corporation shall in either case, by a vote of a majority of the members thereof, petition the board of county commissioners of the proper county for a change of township lines so as to make them identical, in whole or in part, with the limits of the corporation, such board of county commissioners may, on presentation of such petition, with the proceedings of the council, duly authenticated, at any regular or adjourned session, change the boundaries of the township or townships accordingly.

Section 481. If, in making such change, any township, not having within its limits a city or incorporated village, is reduced in territory to less than twenty two square miles, such township shall be by the commissioners thereupon annexed to any contiguous township or townships; or the commissioners may annex thereto territory from any contiguous township or townships, and erect a new township, as in their opinion will best promote justice and public convenience.

Annexation  
of contiguous  
territory.

Section 482. Whenever the change of boundaries of townships is required under section four hundred and eighty, by reason of the extension of the limits of a corporation, the change shall be made by annexation to the township in which the corporation, or the greater part of it, was before situate, of such parts of other townships as may be covered by such extension.

To what  
township an-  
nexation of  
territory  
shall be  
made.

SEC. 2. Said original sections four hundred and eighty, four hundred and eighty-one, and four hundred and eighty-two are hereby repealed, and this act shall take effect and be in force from its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER.

*President of the Senate.*

Passed January 13, 1873.

## AN ACT

To amend section six hundred and sixty-two of an act entitled "An act to provide for the organization and government of Municipal Corporations," passed May 7, 1869. (O. L., vol. 66, page 261.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section six hundred and sixty-two of the above recited act be amended so as to read as follows:

Section 662. The trustees or council of any municipal corporation, for the purpose of extending the time of the payment of any indebtedness incurred, which, from its limits of taxation, such corporation is unable to pay at maturity, shall have power to issue bonds of such corporation, or borrow money, so as to change but not increase the indebtedness, in such amounts, and for such length of time, and at such rate of interest as the council may deem proper, not to exceed the rate of eight per centum per annum.

Issue of  
bonds, &c., to  
extend time  
of payment.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,

*President of the Senate.*

Passed January 13, 1873.

## AN ACT

To provide for the election to, and assembling of a Convention to revise, alter or amend the Constitution of the State of Ohio.

WHEREAS, At the general election held in this state on the second Tuesday of October, A. D. 1871, the question, "Shall there be a convention to revise, alter or amend the constitution?" was submitted to the electors of the State, and a majority of all the electors voting thereat decided in favor of a convention; and

WHEREAS, In such case, it is made the duty of the general assembly at its next session, to provide by law for the election of delegates to, and the assembling of such convention; therefore,

**Election of delegates.** SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the qualified electors of each county and representative district in this state, shall on the first Monday in April, A. D. 1873, assemble at their usual places of holding April elections, and proceed to elect a number of delegates, having the qualifications of an elector, to said convention, equal to the number of representatives which such county or district was entitled to elect to the house of representatives of the sixtieth general assembly of Ohio.

**Proclamation, returns, &c.** SEC. 2. That said election shall be proclaimed by the sheriffs of the several counties, and shall in all respects be conducted, the returns thereof made, and the result thereof certified, as is provided by law in case of the election of representatives to the general assembly, the judges and clerks of such election being those of said April election; provided, if two or more candidates at such election have the highest and an equal number of votes for delegate, the election shall be determined by lot, as provided by law in case of county officers.

**Time and place of assembling.** SEC. 3. That the delegates so elected shall assemble in the hall of the house of representatives, in the city of Columbus, on the second Tuesday of May, A. D. 1873, at ten o'clock A. M., with authority to adjourn to any other place within this state for the holding of the convention; and may, for the purpose of a temporary organization, be called to order by the oldest member present. They shall be entitled to the privileges of senators and representatives, named in section twelve, article second of the constitution.

**Powers and duties of convention** SEC. 4. Said convention shall have authority to determine its own rules of proceeding, and to punish its members for disorderly conduct, to elect such officers as it may deem necessary for the proper and convenient transaction of the business of the convention, and to prescribe their duties; to make provisions for the publication of its own proceedings, or any part thereof, during its session; to provide for the publication of the debates and proceedings of the convention, in durable form, and for the securing of a copyright thereof for the state; and to fix and prescribe the time and form and manner of submitting any proposed revision, alter-

ations or amendments of the constitution to the electors of the State; also the notice to be given of such submission..

SEC. 5. The election at which said submission shall be made, shall be held and conducted at the places and by the officers and in the manner provided by law for the election of members of the house of representatives so far as practicable, and the votes cast for and against such proposed revision, alterations or amendments, and those cast for and against each of the same separately submitted, shall be entered on the tally-sheet, counted, certified, transmitted and canvassed, and the result thereof declared in the manner prescribed in the "act relative to submitting the question, 'shall there be a convention to revise, alter or amend the constitution' to the electors of Ohio," passed March 30, 1871, so far as applicable. And all the provisions of the laws of the state relative to elections shall apply to said election as far as applicable. If such submission be made upon a day other than the second Tuesday of October, or the first Monday of April, the judges and clerks of election, and other officers performing duties pertaining thereto, shall be entitled to the compensation fixed by law for similar services.

Ratification  
of constitution  
by the  
people.

SEC. 6. Any vacancy occurring among the delegates by death, resignation or otherwise, shall be filled in the manner provided by law for filling a vacancy in the office of representative.

Filling of  
vacancies.

SEC. 7. The journal and proceedings of said convention shall be filed and kept in the office of secretary of state. Said secretary of state shall furnish said convention with all needed stationery, and shall do such other things relative to the distribution and publication of matter pertaining to the convention as it may require. He shall forthwith cause such number of copies of this act to be published and transmitted to the several clerks of the courts of common pleas in the state as will be sufficient to supply a copy thereof to each board of judges of election in their respective counties, and such clerks shall distribute the same to such boards.

Duties of  
secretary  
of state.

SEC. 8. It shall be the duty of every state, county and municipal officer in the state, to transmit without delay any information at his command which the convention (or general assembly), through any state officer, by resolution or otherwise, may require of him; and if any officer shall fail or refuse to comply with any requirement of this section, he shall forfeit and pay the sum of three hundred dollars for the benefit of common schools, to be recovered in any court of competent jurisdiction, in the name of the state of Ohio, by the prosecuting attorney of the proper county, whose duty it shall be to prosecute all cases of delinquency under this section coming to his knowledge or of which he shall be informed.

Duty of  
officers to  
furnish information, &c.

SEC. 9. The delegates and officers of the convention shall be entitled to the same compensation and mileage for their services as is allowed by law to members of the general assembly, to be paid out of the state treasury on the warrant of the auditor of state: Provided, an additional allowance may be made to the official reporters of the convention if

Compensation of members of convention.

deemed proper. And no warrant shall issue on the state treasury for such compensation, or for money for uses of the convention, except on the order of the convention and certificate of the president thereof.

SEC. 10. This act shall take effect on passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed January 14, 1873.

## AN ACT

Prescribing the rate of State taxes, and to repeal an act therein named.

Annual levy of taxes.	SECTION 1. <i>Be it enacted by the General Assembly of the State of Ohio,</i> That there shall be levied annually taxes for state purposes, on each dollar of valuation of taxable property, as follows:
General revenue fund.	For general revenue purposes, being the expenses of the state government, and such other charges as by law are payable from said fund, six-tenths of one mill. Said fund shall be styled the general revenue fund.
Asylum fund.	For state benevolent, penal and reformatory institutions, five-tenths of one mill, which fund shall be styled the asylum fund; and to meet the increased expenditures for building, rebuilding, completing and repairing the state public institutions, there shall be levied for said fund in each of the years 1873 and 1874 the additional tax of six-tenths of one mill.
Transfer of funds.	The auditor of state is hereby directed, on the passage of this act, to transfer from the general revenue fund to the credit of the asylum fund seventy one-hundredths of all the moneys then in the treasury belonging to the general revenue fund, or that may come into the treasury from the levy of 1872 on account of said general revenue fund. All moneys certified into the treasury by the benevolent, penal and reformatory institutions, shall be placed to the credit of the asylum fund. On the reimbursement of any sums heretofore transferred to the general revenue fund from other funds in the treasury, the general revenue fund shall pay thirty per cent. and the asylum fund seventy per cent. of said sums.
Sinking fund	For the payment of the interest and the constitutional reduction and further payment of the principal of the debts of the state, eight-tenths of one mill; said fund to be styled the sinking fund.
Common school fund.	For the support of common schools, one mill. Said fund shall be styled the common school fund.
Repeal.	SEC. 2. That the act prescribing the rates of state taxes, passed May 1, 1871, be and the same is hereby repealed.



SEC. 3. This act shall take effect from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed January 14, 1873.

## AN ACT

To provide for the creation and regulation of Fishing Associations in the State of Ohio, and supplementary to an act to provide for the creation and regulation of Incorporated Companies in the State of Ohio, passed May 1, 1852.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That from and after the passage of this act it shall be lawful for any number of persons, not less than five, to associate together to form a company for the purpose of propagating fish and establishing fisheries in this state.

Formation of fishing associations authorized.

SEC. 2. That any number of persons as aforesaid associating to form a company for the purpose of propagating fish and to establish fisheries, shall, under their hands and seals, make a certificate, which shall specify as follows:

Certificate—its contents.

*First*—The name assumed by such company, and by which it shall be known.

*Second*—The place where said fishery shall be located, giving a description of its boundaries.

*Third*—The amount of capital stock necessary to stock, establish, finish and equip the same.

Such certificate shall be acknowledged before a justice of the peace or notary public, and forwarded to the secretary of state, who shall record the same in his office; and a copy thereof, duly certified by the secretary of state, under the great seal of the state of Ohio, shall be evidence of the existence of said company.

SEC. 3. That when the foregoing provisions have been complied with, the persons named as corporators in said certificate shall be authorized to carry into effect the objects named in said certificate, in accordance with the provisions of this act; and they and their associates, successors and assigns, by the name and style provided in said certificate, shall thereafter be deemed a body corporate, with succession, with power to sue and be sued, plead and be impleaded, defend and be defended, contract and be contracted with, acquire and convey at pleasure all such real and personal estate as may be necessary and convenient to carry into effect the objects of the incorporation, to make and use a common seal, and the same alter at pleasure, and do all needful acts to carry into effect the object for which it was created.

Body corporate; powers, &c.

SEC. 4. The capital stock of such company shall be divided into shares of not less than five dollars each, and consist of

Capital stock

such sum as shall be named in the certificate, and shall be paid in as required by the incorporators or directors of such company.

Rules and by-laws.

SEC. 5. That such association or body corporate, above incorporated, shall have full power to make and establish such rules and by-laws for its government as it may deem best, to decide what officers it shall have, and to prescribe the times and manner of elections, and to make such other rules, regulations and by-laws as may be necessary and expedient to effect the objects of such an organization.

Trespassing upon fisheries forbidden.

SEC. 6. That whenever any company organized under the provisions of this act shall acquire the right to use any stream, canal or reservoir, from the owner or owners of the land adjoining thereto, for the establishment of a fishery as aforesaid, owned, maintained and used for the purpose of propagating fish, it shall be unlawful for any person or persons to fish therefrom without first obtaining authority from such company; and any person violating the provisions of this section shall be liable to such company in trespass, or to such fines as may be authorized by law against persons trespassing upon the lands of any person or persons: Provided, that the navigable streams and public canals in this state shall not be subject to the provisions of this section; and provided further, that nothing in this act shall be so construed as to restrain or prohibit the privilege of any person to use or fish from any lake, river, stream or reservoir which, by custom or usage, has been used for the purpose of fishing therefrom, as regulated by an act passed March 18, 1871, to provide for the protection of fish in the rivers, streams, creeks, lakes, ponds and reservoirs of this state.

Proviso.

SEC. 7. This act to take effect from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed January 15, 1873.

## AN ACT

To amend section twenty (20) of an act entitled "An act prescribing the duties of County Auditors," passed and took effect April 4, 1859. (S. & C., page 99.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section twenty of said act be so amended as to read as follows:

Correction of errors in duplicate.

Section 20. The county auditor shall from time to time correct all errors which he shall discover in his duplicate, either in the name of the person charged with taxes or assessments, the description of lands or other property, or in the amount of such tax or assessment; and when the auditor is satisfied, after having delivered the duplicate to the county treasurer for collection, that any tax or assessment thereon, or any part

thereof, has been erroneously charged, he may give the person charged therewith a certificate to that effect, to be presented to said treasurer, who shall deduct the amount from said tax or assessment; and if at any time the county auditor shall discover that any erroneous taxes or assessments have been charged and collected in previous years, he shall call the attention of the county commissioners thereto at any regular or special session of the board, and if the county commissioners shall find that taxes or assessments have been so erroneously charged and collected, they shall order the county auditor to draw his warrant on the county treasurer in favor of the person or persons paying the same for the full amount of the taxes or assessments so erroneously charged and collected, and the county treasurer shall pay the same out of any surplus or unexpended funds in the county treasury; and the county auditor shall at the next semi-annual settlement with the auditor of state after the refunding of such taxes, deduct from the amount of taxes due the state at such settlement, the same as other taxes refunded are now required to be deducted, the amount of such taxes that shall have been paid into the state treasury: Provided, no taxes or assessments shall be so refunded, except such as shall have been so erroneously charged and collected in the five years next prior to the discovery thereof by the county auditor; but no assessment shall be so returned except from the fund or funds created in whole or in part by such erroneous assessment.

County commissioners to be notified, &c.

Deduction of excess of taxes, &c.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed January 16, 1873.

## AN ACT.

To amend sections 342 and 344 of an act entitled "An act to provide for the organization and government of Municipal Corporations," passed May 7, 1869. (O. L., vol. 66, pages 206 and 207.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That sections three hundred and forty-two and three hundred and forty four of the above entitled act be amended so as to read as follows:

Section 342. The said trustees shall be authorized to make contracts for the building of machinery, water-works, buildings, reservoirs, and the enlargement and repair thereof, and the manufacture and laying down of pipe, and the furnishing and supplying with connections all necessary fire hy-

Trustees may make contracts, &c.

drants for fire department purposes, and keeping the same in repair, and for all other necessary purposes to the full and efficient management and construction of water-works.

No charge  
for water to  
extinguish  
fires, &c.

Section 344. No charge shall be made by the trustees of water-works for supplying water for the extinguishing of fires or cleaning of fire apparatus, or for furnishing and supplying connections and fire hydrants and keeping the same in repair for fire department purposes, or the cleaning of market-houses, or for the use of any of the public buildings belonging to the corporation.

Repeal.

SEC. 2. Sections three hundred and forty-two and three hundred and forty-four in said original act be and the same are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed January 22, 1873.

## AN ACT

To amend section two of an act entitled "an Act to prevent nuisances," passed February 28, 1831. (S. & C., 877.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section two of the above recited act be amended so as to read as follows :

Penalty for  
putting dead  
carcass into  
well, cistern,  
etc.

Section 2. That if any person or persons shall willfully and maliciously put any dead animal, carcass or part thereof, or any other putrid, nauseous, noisome or offensive substance into any well, spring, brook or branch of running water, of which use is or may be made for domestic purposes, or who shall in any other manner befoul any well, spring, brook or branch of running water of which use is or may be made for domestic purposes, every person so offending shall, on conviction thereof, be fined in any sum not less than five dollars and not exceeding fifty dollars, or imprisoned in the jail of the county not exceeding sixty days, or both, at the discretion of the court; and shall moreover be liable to the party injured in civil damages.

SEC. 3. [2] That section two of the above recited act be and the same is hereby repealed.

SEC. 4. [3] This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed January 22, 1873.

## AN ACT

To change the time fixed for holding the first term of the Court of Common Pleas, for the year 1873, in the county of Jackson.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the time for holding the first term of the court of common pleas, for the year 1873, in the county of Jackson, as fixed by the judges of the seventh judicial district, be and the same is hereby changed, and that said term be held on the twenty-fourth day of February, instead of the third day of March, in said year, as fixed by said judges.

Common  
pleas for  
1873, in Jack-  
son county.

SEC. 2. This act shall be in force from and after its passage.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed January 22, 1873.

## AN ACT

To change the time of holding the Court of Common Pleas, for the year 1873, in the county of Jefferson, in the Eighth Judicial District.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the time for holding the court of common pleas in Jefferson county, in the eighth judicial district, for the year 1873, as fixed by the judges of said district, be and the same is hereby changed, and that said court shall be held in said county so as to commence as follows, viz: on the 17th day of March, the 16th day of June, and the 24th day of November: Provided, that nothing herein contained shall be construed to change or interfere with the times fixed by said judges for holding courts in the remaining counties of said district.

Common  
pleas for 1873  
in Jefferson  
county.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed January 27, 1873.

## AN ACT

To amend section one hundred and seventy-four of an act entitled an act to provide for the organization and government of Municipal Corporations, passed May 7, 1869.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section one hundred and seventy-four of the above recited act be so amended as to read as follows :

Jurisdiction  
of justices in  
certain cities.

Section 174. In cities having a police court, justices of the peace resident therein shall have concurrent jurisdiction in all cases with the said court and the judge thereof; provided said justices shall not exercise the jurisdiction herein conferred except in the absence, inability or disability of said police judge; and when directed in writing so to do, by the mayor of said city, all the courts of said city and county shall take judicial notice thereof.

SEC. 2. That said original section 174 be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed January 27, 1873.

## AN ACT,

To amend section fifteen of an act entitled "An act to provide for locating, establishing and constructing Ditches, Drains and Water Courses in townships, and to repeal a certain act therein named." (S. & S., page 322.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section fifteen of the above named act be so amended as to read as follows :

Cleaning  
and widen-  
ing of  
ditches, &c.

Section 15. The township trustees shall have the same power to cause any ditch, drain or water-course, located and constructed under the provisions of this act, or under any other act, or by individuals or otherwise, to be cleaned out, deepened, widened or improved, so as to afford a free flow of water through the same, as they have to order any ditch, drain or water-course to be located and constructed under the above named act; and the same proceedings, as far as necessary and applicable, shall be had, as are required in the location and construction of ditches, drains and water-courses. In all cases the expenses of the same shall be apportioned in the same manner as in the original construction: Provided, that whenever any person shall dam or fill up, or cause the

Proviso.

same to be done, any ditch, drain or water-course which has heretofore been constructed, by whatever authority, so as to obstruct the free flow of water through the same, and shall refuse or neglect to remove all such obstruction within twenty days after he shall have received notice to do the same, either from the township trustees, the supervisor of roads, or any person or persons injured by such obstructions, the township trustees or proper supervisor of roads shall cause the same to be reopened, and all obstructions removed; and the expense of such improvement shall be assessed upon the person causing the said obstruction, and if not paid by such person within twenty days after such improvement shall have been completed, said supervisor (if the improvement be done under his direction) shall report the actual expense thereof to the township trustees, who shall report the same to the auditor of the county, who shall place the same upon the duplicate against the property upon which said obstruction existed, and be collected as other taxes.

Removing  
obstructions,  
&c.

SEC. 2. That said section fifteen of the above recited act be and the same is hereby repealed.

SEC. 3. This act shall be in force from its passage.

N. VAN VORHES,  
*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed January 27, 1873.

## AN ACT

To amend section ten of an act entitled "An act to reorganize the Institution for the Education of the Deaf and Dumb, and to repeal certain laws heretofore passed," passed and took effect April 5, 1866. (63 vol. Stat., 116; S. & S., p. 43.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section ten of the above recited act be so amended as to read as follows:

Section 10. All pupils admitted into the institution who have a legal residence in the state shall be supported at the expense of the state: Provided, that parents and guardians of such pupils shall be required to keep them comfortably and neatly clothed, and to pay their traveling and incidental expenses; and if such parents or guardians shall neglect or refuse so to do, the steward of the institution is hereby authorized to furnish the requisite clothing and pay the said expenses. For the clothing so furnished, and the expenses thus incurred, the steward shall make out a bill of items, charging the same to the current expense account of the institution, from which the amount shall be paid. The

How pupils  
supported,  
&c.

Expense,  
how col-  
lected.

account so drawn up, signed by the steward, countersigned by the superintendent, and sealed with the seal of the institution, shall be forwarded to the auditor of the county from which the pupil came, who shall pay the amount of said bill out of the county funds to the steward of the institution, to be credited to the current expense funds; and said auditor shall then proceed to collect the same in the name of the state of Ohio, as other debts are collected.

SEC. 2. That original section ten of the above recited act be and is hereby repealed.

SEC. 3. This act to take effect from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed January 29, 1873.

## AN ACT

Supplementary to "An act for the relief of the poor, and to repeal certain acts therein named," passed April 26, 1872. (O. L. 69, p. 115.)

Sale of real  
estate.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That when the directors of any county infirmary in this state shall desire to sell any real estate under the provisions of the twenty-ninth and thirty-first sections of the act to which this is supplementary, they shall file a petition for that purpose in the court of common pleas or probate court, and the proceedings therefor, sale, confirmation of sale and execution of deeds by said directors, shall, in all respects, be conducted in conformity to the practice and statutory provisions for the sale of real estate by guardians.

SEC. 2. This act shall take effect on its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed January 29, 1873.

## AN ACT

To amend section three of an act passed February 10, 1870, (vol. 67, O. L., p. 7,) supplementary to "An act to provide for the organization and government of municipal corporations," passed May 7, 1869. (Vol. 66, O. L., p. 145.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section three of the above named act,



passed February 10th, 1870, be amended so as to read as follows :

Section 3. Aldermen and councilmen elected for such city, within ten days after their election, upon separate days, shall assemble and organize their respective boards, as now provided for councils of cities of the first class, by the act to which this is supplementary ; and a majority of either shall be a quorum to do business. Each board shall elect, by *viva voce*, a president and vice president from its own body, who shall preside at its meetings ; in the absence of the president of either board, the vice president shall preside ; and in the absence of the president and vice president, a president *pro tempore* shall be elected *viva voce*. All officers required to be elected by either of said boards, either in separate or joint sessions, shall be elected by a *viva voce* vote. Each board shall determine the rules of its own proceedings, and be the judge of the election returns and qualifications of its own members, and shall keep a journal of its own proceedings.

Organiza-  
tion of board.

Viva voce  
vote.

SEC. 2. That section three of the above recited act be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed January 29, 1873.

## AN ACT

To amend section sixty-two of an act entitled " An act to establish a code of criminal procedure for the state of Ohio," passed May 6, 1869. (O. L., vol. 66, page 297.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section sixty-two of the above recited act be amended so as to read as follows :

Section 62. When any person under recognizance under the provisions of this act, either to appear and answer or testify in any court or keep the peace, shall fail to perform the condition of such recognizance, his default shall be recorded, and the recognizance forfeited in open court.

SEC. 2. That section sixty-two of the original act be and the same is hereby repealed, and this act shall be in force from its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed January 29, 1873.

2—LAWS.

ad. 71:17.  
Forfeiture  
of recogni-  
zance.

AN ACT

Supplementary to "An act to provide for the organization and government of municipal corporations," passed May 7, 1869. (O. L. volume 67, page 7.)

**SECTION 1.** *Be it enacted by the General Assembly of the State of Ohio,* That in all cities of the first class having a board of aldermen, the votes of a majority of all the members elected to each board of common council shall be necessary to pass any ordinance, resolution or order in which an expenditure of money is involved, and every ordinance, resolution or order for the expenditure of money, or any contract for the payment of money, or for granting any franchise, or creating any right, or for the purchase, lease, sale or transfer of any property, which shall have passed both boards of the common council in separate session, (except such as levying special taxes for the improvement of streets) before it shall take effect shall be presented, duly certified by the clerk, to the mayor of said city for his approval. If he approves, he shall sign it; if not, he shall return it with his objections to the board in which it originated within ten days thereafter, or, if said board be not in session, at its next meeting after that period. The board shall enter the objections at large on their journal: Provided, however, that the mayor may approve the whole or any item or part of any document presented to him for his signature.

Majority of all the members a quorum.

Ordinances, &c., to be presented to mayor.

Procedure when returned by mayor.

**SEC. 2.** The board shall, after the expiration of not less than ten days, proceed to reconsider the same, after first notifying the other board, or the president thereof, of the action of the mayor; and if such ordinance, resolution or order is approved by the votes of two-thirds of all the members elected to each board, in separate session, it shall then take effect the same as if it had received the signature of the mayor of the city. In all such cases the vote of each board shall be determined by yeas and nays, and the names of the persons voting for and against its passage shall be entered on the journal of the board.

A two-thirds vote requisite to make it a law.

**SEC. 3.** If the mayor shall not return any ordinance, resolution or order presented to him for his signature within the time above limited for that purpose, it shall take effect in the same manner as if he had signed it.

When to take effect without approval of mayor.

**SEC. 4.** All laws inconsistent herewith are hereby declared to be inoperative in cities affected by this act.

Repeal.

**SEC. 5.** This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 JACOB MUELLER,  
*President of the Senate.*

passed January 31, 1873.

## AN ACT

To amend section (15) fifteen of an act entitled "An act to prescribe the duties of the Attorney General," passed May 1st, 1852.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section (15) fifteen of the above recited act be so amended as to read as follows:

Section 15. That he shall, when required, give legal advice to the governor, the secretary of state, the auditor of state, the treasurer of state, the board of public works, the commissioners of the sinking fund, the warden and directors of the penitentiary, the superintendent and directors of the benevolent institutions of the state, the commissioner of railroads and telegraphs, the superintendent of insurance and the comptroller of the treasury, in all matters relating to their official business.

Officers entitled to legal advice from attorney general.

SEC. 2. This act shall take effect and be in force from and after its passage, and said original section is hereby repealed.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed January 31, 1873.

## AN ACT

To repeal section two hundred and six of an act entitled "An act to provide for the organization and government of municipal corporations," passed May 7, 1869. (Vol. 66, O. L., p. 184.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section two hundred and six of the above entitled act be and the same is hereby repealed. Repeal.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed January 31, 1873.

## AN ACT

To authorize the consolidation of joint stock fire and marine insurance companies.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That whenever any joint stock fire and marine

Mode of consolidation prescribed.

insurance company of this state heretofore organized, or that may hereafter be organized, shall determine by a vote of two-thirds of its stock, to consolidate and make joint stock with any other like company or companies, engaged in or incorporated for like business, and each of such companies agreeing by the vote aforesaid to such consolidation, shall, by a vote of a majority of the stock so consolidated, choose and determine under which corporate organization, or articles of association of either of the consolidating companies, and under what name their future business shall be conducted, and upon filing with the superintendent of insurance of this state, a certificate of such consolidation, said company shall from thenceforth become, and be consolidated under the corporate organization or articles of association and corporate name thus chosen; and thereupon all franchises, rights, equities, property and estate of whatever name or nature belonging to or vested in either of the consolidating companies, shall immediately upon and by the act of such consolidation become the property and estate of and be vested in such consolidated company, and the corporate existence of the consolidating companies, from thenceforth shall cease and be merged in said consolidation; and such consolidated company shall have the exclusive right and power to demand, sue for, collect, convey and dispose of the rights, equities, property and estate aforesaid, or any part thereof, under its own name chosen as aforesaid, and all debts, liabilities and obligations of the consolidating companies shall be assumed and paid by the company thus consolidated.

Rate of valuation of capital stock.

SEC. 2. Upon the consolidation of any two or more companies as aforesaid, the just and true value of each outstanding share of the capital stock of each of the consolidating companies, shall, by their respective directors, be ascertained through a suitable valuation of all the assets and liabilities thereof, at the time of the consolidation, and new shares of the consolidated company shall be apportioned to each stockholder, equal to the sum ascertained as aforesaid to be the just and true value of his shares in each or either of the consolidating companies, and the shares thus apportioned shall be substituted for his original shares, and all certificates of shares in said consolidating companies shall be surrendered upon the issuing of new certificates of the shares apportioned as aforesaid: Provided, that any stockholders in either of the companies so consolidating, who shall refuse to agree to such consolidation, shall be entitled to receive for the stock by him owned, the just market value of the same at the time of such consolidation, to be paid to him previous to such consolidation.

Proviso.

Election of directors of consolidated company.

SEC. 3. Immediately upon the consolidation of such companies, the directors of the several companies thus consolidating, shall proceed to elect from their members, the directors for the consolidated company, who shall serve until their successors are elected and qualified.

Amount of capital stock.

SEC. 4. The capital stock of such consolidated company may be equal to, but shall not, by virtue of such consolida-

tion, exceed the aggregate authorized capital of the consolidating companies.

SEC. 5. Within thirty days after such consolidation, a certificate of the fact thereof, and setting forth the name and organization adopted thereby, shall be filed in the office of the secretary of state. Certificate of consolidation.

SEC. 6. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed January 31, 1873.

## AN ACT

To amend section six hundred and sixty-three of an act to provide for the organization and government of municipal corporations, passed May 7th, 1869, as amended April 18, 1870.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section six hundred and sixty-three of the above recited act be amended so as to read as follows:

Section 663. Loans may also be made by any municipal corporation in anticipation of the revenues to be derived from any tax authorized by this act for public improvements or other public use, and the council shall have power to issue the bonds of the corporation for the money so borrowed, in such amounts as they may determine, bearing a rate of interest not exceeding eight per cent. per annum, and payable at such time as they may deem proper, not exceeding fifteen years: Provided, said bonds shall not in any case be sold for less than their par value; and further provided, that cities of the first class, which advanced to that grade between decennial periods, may issue bonds for a period not exceeding twenty-five years. Borrowing of money in anticipation, &c.

SEC. 2. Original section six hundred and sixty-three of the above recited act is hereby repealed.

SEC. 3. This act shall take effect from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed February 1, 1873.

## AN ACT

To amend an act entitled "An act to amend an act entitled an act prescribing the rate of taxation for county, bridge, road and township purposes," passed April 26th, 1872. (O. L. vol. 69, page 114.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section five of the above entitled act be and the same is hereby amended to read as follows :

Taxes for  
township  
purposes.

Section 5. There shall be levied annually for township purposes, including the relief of the poor, but not including the support of common schools, or the payment of the interest and principal of the debts of the township, such rates of taxation as the trustees of the respective townships may certify to the county auditors to be necessary, not exceeding one mill and one half on each dollar of the taxable valuation of the property of the township which does not exceed two hundred thousand dollars, and eight-tenths of one mill on each dollar of such taxable valuation exceeding two hundred thousand dollars, and not exceeding three hundred thousand dollars; and one-half of one mill on each dollar of taxable valuation exceeding three hundred thousand dollars, and not exceeding five hundred thousand; and one-fourth of one mill on each dollar of taxable valuation exceeding five hundred thousand dollars: Provided, that in counties where there are no county infirmaries, a further township tax not exceeding (three mills) on each dollar of the taxable property of the township may be levied for the relief of the poor, to be applied solely to that purpose.

SEC. 2. That section five of the act to which this is amendatory be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed February 4, 1873.

## AN ACT

Supplementary to an act entitled an act to amend an act entitled an act to amend sections sixty-six, sixty-seven and seventy of the act entitled an act to provide for the creation and regulation of Incorporated Companies in the State of Ohio, passed May 1, 1852 (S. & C. page 305), and to repeal a certain act amendatory thereto, passed January 26, 1865 (S. & S. p. 239), and to repeal a certain section therein named.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be lawful for any company for the detection of horse thieves and other criminals, and the mutual protection of its members from crime, to become a body corporate, in the manner prescribed in and according to the provisions of section one of the act of the general assembly, passed and took effect January 26th, 1865, entitled an act to amend an act entitled an act to amend sections sixty-six, sixty-seven and seventy of the act entitled an act to provide for the creation and regulation of incorporated companies in the State of Ohio, passed May 1st, 1852 (S. & C., 305), passed January 26th, 1865 (S. & S., p. 239), and to repeal a certain act amendatory thereto (56 v. Stat., 45), with all the powers and privileges granted to the other corporations organized under the provisions of said section: Provided, that any company, for the purposes aforesaid, on complying with the provisions and the act to which this is supplementary, shall have power to establish one or more branches for the purpose aforesaid; and said company, or any of its branches, shall have power to levy and collect assessments from its members, in any sum not exceeding three dollars, from each member annually.

H o \  
nies for, the  
detection of  
horse thieves  
may become  
bodies cor-  
porate.

SEC. 2. That the act supplementary to an act entitled  
"An act to provide for the creation and regulation of incor-  
porated companies in the state of Ohio," passed April 26th,  
1872, be and the same is hereby repealed.

Repeal.

SEC. 3. That this act shall take effect on its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed February 4, 1873.

## AN ACT

To amend section one of an act to regulate the sale of mineral oils and other substances for illuminating purposes, and to repeal an act entitled an act to provide for the inspection of mineral oils for illuminating purposes, passed April 16, 1867 (S. & S., 402), passed April 27, 1872 (page 161, Ohio Laws, 1872).

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section one of the above entitled act be amended so as to read as follows:

Section 1. That it shall be unlawful for any person or persons, as agent or otherwise, to offer for sale for illuminating purposes, any mineral or petroleum oil, fluid or substance, which is a product of petroleum, or into which petroleum enters or is found as a constituent element, until after he or they have tested the same in the manner following, to

Unlawful to  
sell mineral  
oils not prop-  
erly tested  
as to explo-  
sive quali-  
ties.

Manner of  
testing.

wit : By taking not less [than] a half pint of the oil, fluid or substance to be tested, and placing the same in a small vessel in which there is no other substance, of such dimensions that the surface of the oil, fluid or substance shall not exceed six nor be less than four square inches in area, and placing a Fahrenheit thermometer in said oil, fluid or substance in said vessel, in such a manner that the thermometer will indicate the temperature of the oil or substance being tested, which shall then be gradually heated, at a rate of not less than two nor more than six degrees per minute Fahrenheit, to a temperature as which said oil, fluid or substance will emit a gas or vapor, that will ignite by bringing the flame of a lighted match [or other burning taper] in contact with the surface of the articles being tested, with such frequency and in such manner as to ascertain the exact temperature by said thermometer, at which said fluid, oil or substance will emit a gas or vapor that will ignite; and if it emit a gas or vapor that will ignite at any temperature below a 110 degree Fahrenheit, then it is hereby declared to be dangerous, and it shall be unlawful to sell or offer the same for sale.

Repeal.

SEC. 2. Section one of said act is hereby repealed, and this act shall be in force and take effect from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed February 7, 1873.

## AN ACT

To amend an act entitled "An act to provide for the organization and government of municipal corporations," passed May 7, 1869; passed April 18, 1870.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section 507 of the act entitled an act to provide for the organization and government of municipal corporations, passed May 7, 1869, as amended April 18, 1870, be and the same is hereby amended so as to read as follows :

Purposes for  
which private property  
may be appropriated.

Section 507. Each city and incorporated village shall have power to appropriate, enter upon and hold real estate within its corporate limits for the following purposes, but no more shall be taken or appropriated than is reasonably necessary for the purpose to which it is to be applied :

For streets.

1. For opening, widening, straightening and extending streets, alleys, and avenues; also for obtaining gravel or other proper material for the improvement of the same, and



for this purpose the right to appropriate shall not be limited to lands lying within the limits of the corporation.

2. For market space. Markets.
3. For buildings and structures required for the use of the fire department. Engine houses, &c.
4. For public halls and necessary offices.
5. For prisons. Prisons, &c.
6. For infirmaries.
7. For workhouses.
8. For houses of refuge and correction.
9. For public hospitals.
10. For public parks; and for this purpose the right to appropriate shall not be limited to lands lying within the limits of the corporation. Parks.
11. For gas works. Gas and water works.
12. For water works; and for this purpose the right to appropriate shall not be limited to lands lying within the limits of the corporation.
13. For school house sites and grounds, the same having been recommended and the site selected by the board of education; or for university site and grounds, the same having been recommended and the site selected by the board of directors of any university whose property is exclusively owned, and whose directors are appointed by said municipal corporations. School-houses and universities.
14. For public cemeteries; and for this purpose the right to appropriate shall not be limited to lands lying within the corporation. But no land shall be appropriated under this provision until the court shall be satisfied that suitable premises cannot be obtained by contract upon reasonable terms; and no lands shall be appropriated upon which there may be any dwelling house, barn, stable, or other farm building, or upon which there shall be any orchard or nursery, or any valuable mineral or other medical spring, or any well actually yielding oil or salt water; nor shall any land be appropriated within two hundred yards of any dwelling house. Cemeteries.
15. For public wharves and landings on navigable waters. Wharves, levees, &c.
16. For levees to protect against floods; and for this purpose the corporation shall have power to appropriate, enter upon and take private property lying outside of the corporate limits, and may extend and strengthen its levees and embankments along any river or stream adjacent to the limits of the corporation, and may widen the channel of such river or stream.
17. For necessary bridges. Bridges, canals, &c.
18. For constructing, opening, excavating, improving, deepening, enlarging, straightening, and extending any canal, ship canal or water-course, located in whole or in part within the limits of the corporation, which is not owned in whole or in part by the state, or by any company or individual authorized by law to make such improvement.
19. For sewers, drains and ditches. Sewers, &c.
20. For public water-closets and privies.

21. For lighting any public use.

SEC. 2. That said original section 507, as amended April 18, 1870, be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed February 14, 1873.

## AN ACT

To amend section eight of an act entitled "An act to reorganize the Institution for the Education of the Deaf and Dumb, and to repeal certain laws heretofore passed," passed April 5, 1866. (S. & S., 41.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section eight of the above recited act, be so amended as to read as follows:

Who shall be  
admitted to  
the benefits  
of the insti-  
tution.

Section 8. The institution shall be open to receive deaf mutes, residents of the state, as the trustees and superintendent shall judge, from reliable information and examination, to be suitable persons to receive instruction, according to the method therein employed: Provided, that no person shall be received under six or over twenty-one years of age; and, provided further, that no person shall be received who is addicted to immoral habits, or who has any contagious or offensive disease.

SEC. 2. That said original section eight be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed February 14, 1873.

## AN ACT

To amend an act entitled "An act limiting the compensation of certain officers therein named," passed April 6, 1870, (O. L., Vol. 67, page 36,) and repealing certain sections of said act.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That sections five, six and seven of the act entitled "An act limiting the compensation of certain officers therein named," passed April 6, 1870, be so amended as to read as follows:

Section 5. That after deducting from the whole amount of the costs, fees, per centages, penalties, allowances and perquisites collected by said officers, collectively, during each year, the amount allowed and paid for the compensation of deputies, clerks, bookkeepers and other assistants, and other necessary expenses of said officers, each shall be allowed to receive, as annual compensation for his services, out of the costs, fees, per centages, allowances, perquisites and penalties so collected and paid into the fee fund, as follows: Clerk, five thousand dollars; sheriff, five thousand dollars; treasurer, seven thousand dollars; auditor, five thousand dollars; recorder, three thousand five hundred dollars, and probate judge, five thousand dollars, which sum shall be paid to them quarterly out of the fee fund, upon the warrant of the county auditor; it being the intent and meaning of this act to limit the maximum annual compensation, from every source, of the officers named in the first section of this act, to the sums named in this section.

Section 6. That each of said officers named in the first section of this act, shall, at the end of each quarter, pay into the county treasury, on the warrant of the county auditor, to the credit of the fee fund, and account for to the county commissioners, for the use of the county, all the fees, costs, penalties, per centages, allowances and perquisites of every sort collected by him during said quarter; but if at the close of any quarter the amount of fees, costs, per centages, allowances or penalties in the fee fund, shall not be sufficient to pay to them the proportion due them for their own use as herein limited, they shall be entitled to receive the amount of any such deficiency out of the fee fund as created by collections subsequently made, in any succeeding quarter or quarters, from the official costs, fees, per centages, allowances and penalties earned and charged by them, after deducting therefrom the amounts allowed for the compensation of the deputies, clerks, bookkeepers and assistants as hereinbefore provided, and this provision shall apply to any such deficiency heretofore accrued and now existing; it shall be the duty of the sheriff, at the expiration of his official term of office, or within ten days thereafter, to pay over to his successor in office all moneys that may be in his hands, under any execution, order for sale or other legal process of whatever kind, or the proceeds arising from any sale of real or personal property by him previously made, and where he holds the same awaiting an order of court for confirmation of sale or distribution of proceeds. And it is hereby further provided and made the duty of the fee commissioner in counties to which this act is applicable, to investigate and examine the books and accounts of any or all officers named in the fifth section of this act, for the purpose of ascertaining whether or not the said officers have rendered true and correct accounts, in their sworn quarterly statements, of all the official costs, fees, per centages, allowances and perquisites, of every kind, including moneys received for advertising property for sale by order of court; and the said fee commissioner is hereby

Disposition  
of funds  
arising from  
fees, costs  
&c.

*Adm-*

71: 81

To be paid  
into county  
treasury.

Deficiencies

Duty of sher-  
iff.

Duty of fee  
commission-  
er.

authorized to send for persons and papers, and examine witnesses under oath; and if the said fee commissioner should find that any officer herein named has failed to pay over any part of such fees, perquisites, allowances or commissions, from whatever source, he shall be liable to be proceeded against as is provided for in the act to which this is amendatory.

Exemption  
from liability.

Section 7. Nothing in this act shall be so construed as to make the county, or the county commissioners of any county, liable to any of the officers named herein, or their deputies, clerks, bookkeepers or assistants, for the payment of any salary or compensation, except out of the fee fund of such county.

SEC. 2. That original sections five, six and seven be and they are hereby repealed.

SEC. 3. That this act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*

ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed February 14, 1873.

## AN ACT

Making partial appropriations for the year 1873.

Appropriation.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That there be and hereby is appropriated out of any money in the treasury to the credit of the general revenue fund, and not otherwise appropriated, the following sums, to wit:

### ARSENAL.

Arsenal.

To pay for labor, tools, fuel and materials at the state arsenal, including the care and transportation of arms within the state, to be expended under the direction of the adjutant general or the person who by law has charge of the same, two hundred and forty-two dollars.

### SALARIES OF STATE OFFICERS AND CLERKS.

Salaries  
state officers.

For salaries of the governor, lieutenant governor, auditor of state, treasurer of state, secretary of state, comptroller of the treasury, state commissioner of common schools, superintendent of insurance, attorney general, clerk of the supreme court, private secretary of the governor, commissioner of railroads and telegraphs, state librarian, law librarian, and supervisor of public printing and binding, ten thousand dollars.

Judges.

For the salaries of the judges of the supreme court, the court of common pleas and superior courts, thirty-six thousand five hundred dollars.

For the salaries of the clerks in the office of the auditor of state, two thousand dollars. Clerks.

For salaries of the clerks in the office of the treasurer of state, thirteen hundred dollars.

For salaries of the clerks in the office of the secretary of state, including the necessary services required in carrying out the provisions of the act in relation to a bureau of statistics, passed April 17, 1868, 65 O. L. p. 92, fifteen hundred and fifty dollars.

For salaries of clerks in office of the comptroller of the treasury, six hundred dollars.

For salaries of clerks in the office of the state commissioner of common schools, six hundred dollars.

For salaries of clerks in insurance department, one thousand dollars.

For salary of executive clerk, three hundred dollars.

For salary of clerk in office of commissioner of railroads and telegraphs, four hundred dollars.

For salary of attorney general's clerk, one hundred dollars.

For salary of state librarian's clerk, three hundred dollars.

For salary of adjutant general, five hundred dollars.

For salaries of clerks in office of the adjutant general, six hundred dollars. Adjutant general.

For salary of assistant clerk in the office of the clerk of the supreme court, twelve hundred dollars.

#### STATE BINDING, PRINTING AND STATIONERY.

For binding for the state, in according with existing laws, eight thousand dollars. Printing and binding.

To pay for printing for the state, ten thousand dollars.

To pay Robert Clarke & Co. for printing and binding Ohio Reports, as per contract, made under section 13 of the act of April 23, 1872, providing for the printing, binding and delivery to the state of 350 copies, each of 17 volumes of the Ohio Reports, fourteen thousand eight hundred and seventy-five dollars.

For stationery and blank books, including printing paper and articles necessary for the use of the general assembly and public officers in the state house, twenty-six thousand dollars. Stationery.

#### STATE HOUSE AND GROUNDS.

For the ordinary expenses of taking care of the state house and grounds, and preparing the halls for the general assembly, fifteen hundred dollars. State house and grounds

For wages of employes under direction of the officer having charge of the state house and grounds, fifteen hundred dollars.

For the purchase of fuel for the state house, six hundred dollars.

For deficiency for the purchase of fuel for the state house, two thousand dollars.

For gas consumed in the state house, one thousand dollars.

For necessary repairs of the heating apparatus of the state house, eight hundred dollars.

**CONTINGENT EXPENSES OF THE GOVERNOR AND OTHER OFFICERS.**

**Contingent expenses.**

For contingent expenses of the governor, eight hundred dollars.

For contingent expenses of auditor of state, four hundred dollars.

For contingent expenses of treasurer of state, two hundred dollars.

For deficiency in contingent expenses of the treasurer of state, one hundred and fifty-dollars.

For the employment of clerk to aid in settlement of treasurer's accounts, to be drawn from the treasury at any time on proper vouchers, two hundred dollars.

For contingent expenses of secretary of state, three hundred dollars.

For contingent expenses of comptroller of the treasury, two hundred dollars.

For contingent expenses of commissioner of common schools, two hundred dollars.

For traveling expenses of said commissioner in the discharge of his official duties, three hundred dollars.

For contingent expenses of attorney general, one hundred dollars.

For contingent expenses of commissioner of railroad and telegraphs, two hundred dollars.

For contingent expenses of the superintendent of insurance, three hundred dollars.

For contingent expenses of state librarian, one hundred dollars.

For contingent expenses of supreme court, two hundred dollars.

**Messengers per diem.**

For per diem of messenger of supreme court, two hundred dollars.

For contingent expenses of the clerk of the supreme court, one hundred dollars.

**Distributing laws, &c.**

For distributing the laws, journals and public documents, five hundred dollars.

**W. W. Riley.**

To pay judgments and costs in the case of W. W. Riley, against the state of Ohio, rendered December 12, 1872, in the Franklin county common pleas court, seventeen hundred and thirty one dollars and thirty five cents.

**LEGISLATURE.**

**General assembly.**

For the per diem and mileage of the general assembly, their clerks, assistant clerks, sergeants-at-arms, assistant sergeants-at-arms, messengers, pages and other employes, under the laws and the resolutions of the senate and house, sixty thousand dollars.

For the expenses of the standing and select committees of both branches of the general assembly, one thousand dollars, to be paid on the order of the chairman of the respective committees, and endorsed by the chairman of the committees on claims of the respective houses.

For the contingent expenses of the general assembly, upon vouchers certified by the chairman of the committee on claims and approved by the presiding officer of the respective houses, one thousand dollars.

#### LIBRARIES.

For books, magazines and newspapers for the state library, three hundred dollars. Libraries.

For books for the law library of the supreme court, under the direction of the chief justice, two hundred dollars.

#### NIGHT WATCH.

For salary of night watch of state house, under authority of the treasurer of state, two hundred dollars. Night watch.

#### PUBLIC WORKS.

For incidental expenses of the office and board of public works, two hundred dollars. Public w

For salaries for members of the board of public works, six hundred dollars.

For salaries of the resident engineers, under the authority of the board of public works and the laws, nine hundred dollars.

For salary of clerk of board, three hundred dollars.

To pay the per diem and expenses of the commissioners appointed under the provisions of the act passed April 27, 1872, (O. L., vol. 69, page 176), twelve hundred and twenty-six dollars and thirty-five cents.

#### GEOLOGICAL SURVEY.

To pay salaries of officers for geological survey, twenty-three hundred and thirty-three dollars and thirty-three cents. eological

For salaries of assistant geologists, thirteen hundred seventy dollars and eighty-four cents.

For contingent expenses of geological corps, six hundred and sixty dollars.

For paleontological work, five hundred dollars.

#### MISCELLANEOUS.

For salary of reporter of the supreme court, four hundred and eighteen dollars. Reporter supreme court.

To pay Jonathan Markley for amount paid for escheated land, as per act for his relief passed January 29, 1873, one thousand and eighteen dollars and seventy-two cents. Jonathan Markley.

To pay for the construction of a protection wall on Canal street, in the city of Columbus, which the board of public works were authorized to construct, by joint resolution adopted April 29, 1872, three thousand dollars. Protection wall.

SEC. 2. That there is hereby appropriated from any moneys in the treasury to the credit of the asylum fund, and not otherwise appropriated, the following sums, to wit:

NORTHERN OHIO LUNATIC ASYLUM.

N. O. L. Asy-  
lum. For provisions and necessary current expenses, fifteen thousand dollars.  
For ordinary repairs, three thousand dollars.  
For salaries of officers authorized by law, nine hundred dollars.  
To remove the debris and preserving and assorting the material left by the burning of the asylum building, to be used in the construction of a new building, if the trustees deem the removal, preservation and assorting the same advisable, six thousand dollars.

SOUTHERN OHIO LUNATIC ASYLUM.

S. O. L. Asy-  
lum. For provisions and necessary current expenses, twenty-five thousand dollars.  
For ordinary repairs, five thousand dollars.  
For salaries of officers authorized by law, nine hundred dollars.  
To pay amount contracted for, for increasing water supply and protection against fire, four thousand seven hundred and thirty-one dollars and twenty-three cents.  
To pay for the new hospital property and another tract of land, in addition to the balance of the real estate appropriation unexhausted, seventeen thousand dollars.  
To furnish, fit up and convey water and steam to the new hospital, three thousand eight hundred and ninety-five dollars.

LONGVIEW LUNATIC ASYLUM.

Longview  
Asylum. For the treatment and care of the colored insane in said asylum, three thousand dollars.

ATHENS LUNATIC ASYLUM.

Athens Asy-  
lum. For furnishing said asylum, to be expended by the permanent board of trustees of the asylum, sixty thousand dollars. No contract shall be made or article purchased for the furnishing of the asylum without the concurrent direction of a majority of the board, entered on the minutes of the proceedings of the board. The auditor of state shall not draw his warrant on the treasurer of state for any part of this appropriation, except on the presentation, as vouchers of itemized bills made out and properly signed by the person or persons furnishing the articles so contracted for or purchased, and having endorsed thereon the certificate of two members of the board, countersigned by the superintendent, that the items specified in the bills have been delivered, and are in all particulars in accordance with the terms of the contract or conditions of purchase.  
To pay for work and material contracted for in the construction of said asylum, fifty thousand dollars.  
For grading and contingencies, five thousand dollars.



## LUCAS COUNTY INSANE ASYLUM.

To pay for the support of patients at the Lucas county insane asylum, in accordance with the provisions of contract made under joint resolution, adopted April 27, 1872, after February 15, 1873, ten thousand dollars; and for the sum prior to the 15th day of February, 1873, eight thousand eight hundred and twenty-nine dollars and seventy-one cents.

Lucas county asylum.

## OHIO PENITENTIARY.

For provisions and current expenses, twenty thousand dollars.

Penitentiary.

For salaries of the warden and other officers and guards, and the per diem and expenses of the directors, as provided by law, seventeen thousand five hundred dollars.

For ordinary repairs, three thousand dollars.

For rewards to convicts, three thousand dollars.

## REFORM FARM SCHOOL FOR BOYS.

For current expenses of sustaining and educating the youth committed to said school, seven thousand dollars.

Reform school.

For salaries of officers and teachers, two thousand dollars.

For ordinary repairs, eight hundred dollars.

For library, two hundred dollars.

## GIRLS' INDUSTRIAL HOME.

For provisions and current expenses, four thousand dollars.

Girls' industrial home.

For the salaries of the officers and teachers authorized by law, one thousand dollars.

For ordinary repairs, five hundred dollars.

For deficiency in current expense fund, three thousand four hundred and twenty-four dollars and forty-seven cents.

## DEAF AND DUMB ASYLUM.

For provisions and necessary current expenses, ten thousand dollars.

Deaf and dumb asylum.

For salaries of officers and teachers authorized by law, four thousand dollars.

For ordinary repairs, one thousand dollars.

For the printing department of said asylum, four hundred dollars.

## ASYLUM FOR THE BLIND.

For provisions and necessary current expenses, seven thousand five hundred dollars.

Blind asylum.

For salaries of officers and teachers authorized by law, two thousand dollars.

For ordinary repairs, five hundred dollars.

## ASYLUM FOR IMBECILE YOUTH.

Idiotic asy-  
lum.

For provisions and necessary current expenses, twelve thousand dollars.

For salaries of officers and teachers authorized by law, fourteen hundred dollars.

For ordinary repairs, one thousand dollars.

For deficiency in current expense fund, eight thousand one hundred and thirty-four dollars and eighty-nine cents.

For furniture and furnishing goods for household and school, three thousand eight hundred and eighty-six dollars and thirty-five cents.

For deficiency for repairs, twelve hundred and fifty-six dollars and ninety-four cents.

For heating apparatus, laundry and dormitories and hospital, fifteen hundred dollars.

For deficiency for machinery and plumbing for hospital and laundry, six hundred and twenty-nine dollars.

For hot air and ventilating registers, locks and gas fixtures for hospital and laundry, nine hundred and forty-six dollars.

For changing suction and discharge pipes, nine hundred and eighty-two dollars.

## OHIO SOLDIERS' AND SAILORS' ORPHANS' HOMES.

S. & S. Or-  
phans' Home

For salaries of officers and teachers authorized by law, four thousand dollars.

For provisions and necessary current expenses, fifteen thousand dollars.

For ordinary repairs, five hundred dollars.

For library, two hundred dollars.

## TRUSTEES OF BENEVOLENT INSTITUTIONS.

For expenses of trustees of benevolent institutions, one thousand dollars.

Conditions.

For deficiencies in appropriation of last year for expenses of trustees of benevolent institutions, five hundred dollars.

None of the appropriation herein made for the benevolent, penal, and reformatory institutions, or to be expended by the superintendent of the state house, or for the contingent expenses of any officer or office, shall be drawn from the treasury before the 15th day of February, A. D. 1873; nor shall any part thereof be used for the payment of deficiencies or debts contracted before that date, unless otherwise provided in this act, nor for any other purpose than the purpose for which they are specifically made.

Restriction  
as to clerk  
hire.

No part of the contingent funds herein named, shall be used for clerical hire.

SEC. 3. That this act shall take effect from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed February 15, 1873.

## AN ACT

To regulate the proceedings of County Commissioners.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the board of county commissioners of each county shall meet on the first Monday in December of each year, and proceed to elect from their members a president, for a term of one year, whose duty it shall be to preside at all regular and called meetings of said board, during the time for which he was elected as such president. All the proceedings of said board shall be in public, at the auditor's office, or their usual place of meeting, and not elsewhere, and conducted as far as possible in conformity with the rules of parliamentary law.

Annual  
meeting of  
commission-  
ers.

SEC. 2. It shall be the duty of the clerk to keep a full and complete record of the proceedings of said board, in a suitable book provided for the purpose, entering every motion, with the name of the person making the same, on the record; and he shall call and record the yeas and nays on every motion which involves the levying of taxes, of the appropriation or payment of money. He shall state fully and clearly in the record any question relating to the powers or duties of said board, which shall be raised for their consideration by any person having interest in the matter under consideration, together with the decision upon the same, and shall call and record the yeas and nays by which said decision was arrived at; and shall record, whenever requested by the parties interested in the proceedings, or either of them, or by their counsel, any legal proposition decided by said board, together with the decision thereon, and the votes by which said decision was rendered; and if either party, in person or by counsel, except to said decision, it shall be the duty of the clerk of said board to record such exception, in connection with the record of said decision. The record of the board of county commissioners shall be kept, when the board is not in session, in the auditor's office, and open to public inspection at all proper times. It shall be duly certified by the president and clerk, and shall be received as evidence in any court of the state.

Duties of  
clerk of com-  
missioners.

Record of  
yeas and  
nays, etc.

SEC. 3. No proposition of any character, involving an expenditure of one thousand dollars or upwards, shall be agreed to by the board, unless the period of twenty days shall have elapsed since the introduction of the proposition, except by the unanimous consent of all the members present of the board, and such consent shall be taken by yeas and nays and entered on the record.

Rule as to  
expendi-  
tures.

SEC. 4. This act shall take effect upon its passage.

N. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed February 15, 1873.

## AN ACT

To authorize the United States to appropriate land in the State of Ohio.

Acquisition  
of title to  
land by  
United  
States.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That whenever it shall become necessary for the United States of America to acquire title to a tract of land in this state for any purposes, and the state shall have given its consent to such acquisition, it shall be lawful for said United States of America to acquire such land by appropriation; and for such purpose the "Act prescribing the mode of assessment and collection of compensation to the owners of private property appropriated by and to the use of corporations," passed April 23, 1872, and all acts amendatory thereof, are hereby made applicable, and said United States in appropriating such property, shall, in all respects, be governed by the acts herein referred to, and such other acts supplemental thereto and amendatory thereof as may be passed and be in force when such proceedings take place: Provided, that the United States may pay the costs, including such reasonable attorney fees as may be allowed by the court, to the person or persons whose property is sought to be appropriated, and refuse to make the appropriation, if in their judgment the compensation assessed is too great to justify the appropriation.

Payment of  
costs.

Vacation of  
streets and  
alleys.

SEC. 2. In case there shall be any street or alley not exceeding twenty-five feet in width, running through any block or tract of land so purchased or acquired by the United States, all that portion of such street or alley within such block or tract of land shall, upon the acquisition of the same by the United States, be vacated and closed, and the lots or tracts of land abutting upon any such street or alley shall extend to the center line thereof, and vest in the United States, and become the property thereof, with full right, power and authority to use, occupy and enjoy the same as its own property in fee, to the same extent as if the same had never been used or occupied as a street or alley: Provided, that any person owning or having an equitable interest in any land abutting upon any such alley, but not situate upon, nor separated by a public street from the portion thereof sought to be vacated and closed, shall have a right in any proceedings for such appropriations to set up any claim for damages that would be occasioned to such land by such vacation and closure, and have a finding and judgment thereon, as to the same, as in other cases.

Rights of  
parties inter-  
ested.

SEC. 3. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed February 15, 1873.

## AN ACT

To amend section one of an act supplementary to an act to provide for the creation and regulation of incorporated companies in the State of Ohio, passed May 1, 1852, [S. & O., 271; S. & S., 237], as amended March 11, 1872. [69 Ohio Laws, page 24.]

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section one of the above entitled act, as amended March 11, 1872, be and the same is amended so as to read as follows:

Section 1. That any company which has been heretofore or may hereafter be incorporated under the general laws of this state for manufacturing, bridge, hydraulic or gas purposes, or for mining purposes or masonic or odd fellows' associations, may increase its capital stock and change the number of its directors: Provided, that no such change shall make the number less than three nor more than fifteen.

Increase of  
capital stock,  
and change  
of number  
of directors

SEC. 2. Said section one, as amended March 11, 1872, is hereby repealed.

SEC. 3. This act shall take effect on its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed February 18, 1873.

## AN ACT

To repeal an act therein named.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That an act entitled "An act to amend section twenty of an act for the incorporation and regulation of life insurance companies," passed April 16, 1867, (S. & S., 218,) passed April 10, 1872, (69 O. S. L. page 66,) be and the same is hereby repealed.

Repeal of  
amendatory  
act relative  
to county  
agents of  
insurance  
companies.

SEC. 2. This act shall be in force from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed February 18, 1873.

## AN ACT

To prevent the misapplication of county funds, and the completion of illegal and fraudulent contracts.

Duties of  
prosecuting  
attorneys.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be the duty of the prosecuting attorneys of the several counties of this state, upon being satisfied that the funds of the county or any public money in the hands of the county treasurer are about to be misapplied, or that a contract in contravention of the laws of this state is about to be entered into or is being executed, or that a contract was procured by fraud or corruption, to apply by civil action in the name of the state of Ohio to a court of competent jurisdiction, to restrain such contemplated misapplication of funds, and to restrain the completion or execution of such contract.

In case of  
failure, tax  
payers may  
institute  
suit, etc.

SEC. 2. In case the prosecuting attorney shall fail, upon the written request of any of the tax payers of the county, to make the application contemplated in section one, it shall be lawful for such tax payer to institute such civil action in the name of the state of Ohio.

SEC. 3. This act shall take effect from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed February 20, 1873.

## AN ACT

Making appropriations for the payment of the interest on, and principal of, the State debt.

Appropriations for  
sinking  
fund.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That there is hereby appropriated from any money in the treasury, and that may come into the treasury belonging to the sinking fund, as follows:

To pay the interest on the funded debt of the state, the sum of four hundred and eighty thousand dollars.

To pay the interest on the irreducible debt or trust funds held by the state, two hundred thousand dollars.

To pay the interest on the agricultural and mechanical college fund, ten thousand dollars.

To pay the principal of the funded debt of the state as required by the constitution, the sum of three hundred and thirty-nine thousand nine hundred and fifty-seven dollars.

To pay the expenses of the office of the commissioners of the sinking fund, including the salary of a clerk, twenty-two hundred dollars.

SEC. 2. This act shall take effect on and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed February 21, 1873.

## AN ACT

To amend an act to establish a uniform standard of Weights and Measures, passed April 5, 1859, as amended by an act to amend an act entitled "An act to establish a uniform standard of weights and measures," passed March 21, 1863. (S. & S., p. 926.)

SECTION 1. *Be it enacted by the General Assembly of the State Ohio,* That section one of the first act above named, as amended by the second act above named, be so amended as to read as follows:

Section 1. Whenever the following articles are hereafter sold and no special agreement as to the measure is made by the contracting parties, the bushel shall consist of the following weights: Wheat, sixty pounds; rye, fifty-six pounds; corn, shelled, fifty-six pounds; corn in the ear, seventy pounds, until the first of January of each year next after it is raised, and from and after that date, sixty-eight pounds; oats, thirty-two pounds; clover seed, sixty pounds; timothy seed, forty-five pounds; hemp seed, forty-four pounds; millet seed, fifty pounds; buckwheat, fifty pounds; beans, sixty pounds; peas, sixty pounds; hominy, sixty pounds; Irish potatoes, fifty-eight pounds; sweet potatoes, fifty pounds; dried peaches, thirty-three pounds; dried apples, twenty-two pounds; flax seed, fifty-six pounds; barley, forty-eight pounds; malt, thirty-four pounds; Hungarian grass seed, fifty pounds.

Legal weights of grains, seeds, fruit, etc.

*Amended 1873*  
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SEC. 2. That said section one of the act first above named, as amended by the act second above named, be and the same is hereby repealed.

SEC. 3. That this act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed February 21, 1873.

## AN ACT

To amend section twelve of an act entitled "An act for the punishment of certain offenses therein named," passed March 8, 1831, and took effect June 1, 1831. [S. & C., 429.]

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section twelve of the above recited act be so amended as to read as follows:

Section 12. That if any person, by any false pretense or pretenses, shall obtain from any other person any money, goods, chattels, merchandise or effects whatsoever, or shall, by any false pretense or pretenses procure the signature of

Penalty for obtaining money, etc., by false pretenses.

any person or persons to any bill, bond, receipt, promissory note, draft or check as the maker thereof or any other evidence of indebtedness, with intent to cheat and defraud the owner of said money or property, or the maker of said bond, bill, receipt, promissory note, draft or check, or any other evidence of indebtedness, he shall, on conviction thereof, if the value of said money or property so obtained or the amount of said bond, bill, receipt, promissory note, draft or check, or any other evidence of indebtedness so procured to be made, shall be equal to or exceed thirty-five dollars, be imprisoned in the penitentiary not more than three years nor less than one year, and pay the costs of prosecution; but if the value of the money or other property obtained, or the amount for which the bond, bill, receipt, promissory note, draft or check or any other evidence of indebtedness was given, be less than thirty-five dollars, he shall be guilty of a misdemeanor, and shall be fined in any sum not exceeding one hundred dollars, nor less than ten dollars, or be imprisoned in the jail of the county not more than sixty nor less than ten days, or both, at the discretion of the court, and shall pay the costs of prosecution.

For making  
fraudulent  
transfers,  
etc.

SEC. 2. That if any person shall fraudulently make and transfer any bond, bill, deed of sale, gift, grant or other conveyances to defeat his creditors of their just demands, such person so offending shall, on conviction thereof, be fined in any sum not exceeding five hundred dollars nor less than twenty dollars, or be imprisoned in the jail of the county not exceeding ten days, or both, at the discretion of the court, and pay the costs of prosecution.

Repeal.

SEC. 3. That section twelve of the act passed March 8th, 1831, entitled an act for the punishment of certain offenses therein named, be and the same is hereby repealed: Provided, however, that nothing herein contained shall affect the prosecution for offenses committed before the taking effect of this act.

SEC. 4. This act shall take effect from and after its passage.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed February 21, 1873.

## AN ACT

To incorporate Savings and Loan Associations.

Who may be-  
come bodies  
corporate.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That any number of natural persons, not less than five, may become a body corporate, with all the rights, privileges and powers conferred by and subject to all the restrictions of this act.



SEC. 2. The persons associating to form a savings and loan association as aforesaid, shall, under their hands and seals, make a certificate, which shall specify: *First*—The name assumed by such association, and by which it shall be known in its dealings; *Second*—The name of the place where the business of such corporation shall be transacted; *Third*—The amount of the capital stock of such corporation; and *Fourth*—The time of the annual meeting of the association; and such certificate shall be acknowledged before competent authority, and forwarded to the secretary of state, who shall cause the same to be examined by the attorney general, who shall, if the same is sufficient under the requirements of this act, certify thereto on the same, and the secretary of state shall then record and carefully preserve the same in his office, and a copy thereof, duly certified by the secretary of state, shall be transmitted by him to the said corporation, who shall cause the same to be recorded by the recorder of the county where such corporation is to be established, in a book to be kept by him for that purpose. Copies of such certificate, duly authenticated by the secretary of state, or of the record duly authenticated by the recorder, may be used as evidence in all courts and places, for or against such corporation, and shall be *prima facie* evidence of the legal existence thereof.

Certificate;  
its contents.

Examina-  
tion and rec-  
ord thereof.

SEC. 3. That when the foregoing provisions have been complied with, the persons named as corporators in said certificate are hereby authorized to carry into effect the objects named in said certificate, in accordance with the provisions of this act; and they and their associates, successors and assigns, by the name and style provided in said certificate, shall thereafter be deemed a body corporate, with succession, with power to sue and be sued, to plead and be impleaded, defend and be defended, contract and be contracted with, acquire and convey at pleasure, under the restrictions herein-after contained, all such real and personal estate as may be necessary and convenient to carry into effect the objects of the incorporation, to make and use a common seal, and the same to alter at pleasure, and do all needful acts to carry into effect the objects for which it was created.

Powers, re-  
strictions, -  
&c.

SEC. 4. That for the purpose of carrying on the business of said corporation, and for the security of depositors, it shall be the duty of the persons named in said certificate of incorporation, and such others as shall become associated with them as stockholders in the corporation, to raise and form a capital of not less than fifty thousand dollars, to be divided into shares of one hundred dollars each, to be paid in as shall be required by the board of trustees; but at least one-half of each subscription to said capital stock shall be fully paid in by the respective subscribers thereto before said corporation shall commence business, and the remainder may be called in from time to time as the trustees may require.

Capital  
stock.

SEC. 5. That the persons named in the certificate of incorporation shall be authorized, after the proper record of said certificate, as hereinbefore provided, to open books for

Subscription  
books.

- subscription to the capital stock of such corporation, and when the same is fully and bona fide subscribed, the corporators shall, upon at least three days' notice, personally served upon each stockholder, or ten days' public notice, proceed to call a meeting of the stockholders, at a place specified in the notice, for the purpose of the organization of said corporation. At said meeting the stockholders shall proceed to elect by ballot, from their number, five trustees, who shall hold their office until the first annual meeting of said corporation, and until their successors are elected and qualified. At all meetings of the stockholders, each stockholder shall be entitled to one vote for each share of stock by him subscribed and held; provided, that no stock shall be voted upon on which any assessment is due and unpaid.
- Election of trustees, &c.**
- Organization of board.** SEC. 6. The board of trustees, after being duly qualified, shall organize by the election from their number of a president and vice president, and shall also elect a secretary and treasurer, which office of secretary and treasurer may be held by the same person, and may elect or appoint persons to such subordinate offices or positions as they may deem necessary, which offices shall be held subject to the pleasure of the trustees or a majority thereof.
- Annual meeting.** SEC. 7. The annual meetings of the corporation shall be held at the time fixed in the certificate of incorporation, in each year, at the office of the association, at which meeting the stockholders shall elect the number of trustees required by the by-laws of the association, (but not less than five) in the manner hereinbefore provided, who shall hold their offices for one year, and until their successors are elected and qualified, and who shall organize in the manner hereinbefore provided. At each annual meeting the trustees shall make full report of the business for the preceding year, and its present financial condition. If from any cause such annual meeting shall not be held on the day specified, or no election made or completed, such meeting or election may be held on any subsequent day, on ten days notice given thereof in some newspaper printed in and of general circulation in the county in which such association is located.
- Vacancies, how filled.** SEC. 8. All vacancies in the offices of president, vice president, secretary, treasurer, or trustee, by death, resignation or otherwise, shall be filled by the remaining members of the board of trustees, at their first meeting after such vacancy shall occur, by a majority vote. The trustees shall take and subscribe an oath to support the constitution of the United States, the constitution of the state of Ohio, and to faithfully discharge the duties of their office, and, so far as in their power, to cause the affairs and business of the corporation to be honestly, diligently and faithfully conducted; which oath and certificate thereof shall be duly recorded in the records of the association. The stockholders may, at any annual meeting, increase or decrease (but not below five) the number of trustees, by a two-thirds vote of the stock represented and voting. Stockholders may vote by proxies, duly authorized in writing.
- Oath.**

**SEC. 9.** The board of trustees of said corporation shall have power from time to time to make and establish such by-laws, rules and regulations, as they shall judge proper, for the election of officers, for prescribing their respective duties and functions, and the mode of discharging the same; for the regulation of the times of meeting of the officers and trustees; and prescribe the terms on which deposits shall be received and paid out; and, generally, for transacting, managing and conducting the affairs and business of the corporation: Provided, that such by-laws and regulations are not repugnant to this act, or to the constitution or laws of the state of Ohio or the United States; and such portion of said rules and regulations as relates to the receipt and payment of deposits and the interest thereon, shall be written or printed in the pass book of depositors, which shall not be altered so as to affect any deposit previously made, and shall be obligatory on such depositors.

By-laws,  
rules and  
regulations.

**SEC. 10.** The officers of such corporations, other than trustees, shall, before entering upon the discharge of their duties, give bonds to the corporation, to the amount required by the trustees, with security to their approval for their fidelity and good conduct, and for the safe-keeping and appropriation of the funds of the association, and of all such sums of money as shall be placed in their charge by the depositors or others, and the trustees may require an increase of the amount of said bonds whenever they may deem it necessary.

Officers to  
give bonds.

**SEC. 11.** Whenever any deposit shall be made in a savings and loan association created by this act, by a minor, or a female being, or thereafter becoming a married woman, the same shall be held for the exclusive right and benefit of such depositor, free from the control or lien of any person, except creditors, and shall be repaid to the person making the deposit, and the receipt or acquittance of such minor or female shall be a sufficient release and discharge to the corporation for such deposit.

Loans by  
minors or  
females.

**SEC. 12.** No trustee or other officer of such corporation shall borrow or use the funds of the corporation, except to pay the necessary and current expenses, to an amount greater than one-half of the amount of the stock by him owned or held; nor shall any officer or trustee be surety or in any manner an obligor for money borrowed of or loaned by the corporation to others.

Trustees re-  
stricted in use  
of funds.

**SEC. 13.** That the real estate which it shall be lawful for such corporation to acquire, hold and convey, shall be only such as is necessary and convenient for the transaction of its business, and such as it may find necessary to purchase at judicial sale or otherwise, to secure debts due it; nor shall it hold any real estate purchased to secure debts due it for a longer period than five years; and in all cases of loans upon real estate, the expense of searches, examination of certificates and recording papers, shall be paid by the borrower.

What real  
estate may  
be held.

**SEC. 14.** The general business and object of the corporations created by and organized under the provisions of this act, shall be and they are hereby authorized to receive on deposit, for safe-keeping or making investment thereof, all

Deposits, &c.

Interest.

sums of money that may be offered for that purpose by tradesmen, clerks, mechanics, laborers, minors, or any other person or persons, or by any religious, charitable or municipal corporations or societies, or that may be ordered to be deposited by any court in the state, having custody of moneys, and make investment thereof in the manner herein provided; credit and pay such rates of interest thereon as may be agreed upon, not exceeding the rate allowed by law; and they may purchase and sell promissory notes, drafts and bills of exchange, at such rates as may be agreed upon; and to transact such other business as properly pertains to the business of such associations, not forbidden by the constitution and laws of this state.

Increase of capital stock.

SEC. 15. The stockholders of the corporation may increase the capital stock thereof at any annual meeting or special meeting called for that purpose, by notice served personally on each stockholder, or public notice thereof given for thirty days prior thereto, by a vote of two-thirds of the stock represented and voting at such meeting. In case such increase of stock shall be voted, the trustees shall make a certificate thereof, under their hands and seals, and transmit the same to the secretary of state, who shall record and preserve the same in his office, and transmit a copy thereof to be recorded as in the case of the original certificate required by this act: Provided, that the stockholders at the time of such increase, shall each be entitled to a *pro rata* share of such increase, upon the payment of the par value thereof; such right to be forfeited, however, if the amount shall not be paid within thirty days of the time fixed by the trustees therefor by public notice.

How funds may be invested.

SEC. 16. That the said corporations shall have authority to invest their funds in the purchase of the stocks, bonds or treasury notes of the United States; the stocks or bonds of this state; the bonds of any municipal or other corporation of this state, issued pursuant to the authority of law; the stocks or bonds of any state in the Union that has, for five years previous to such investment being made, regularly paid the interest on its legal bonded debt, in lawful money of the United States; bonds issued by county commissioners pursuant to law; in bonds or notes secured by mortgages on unincumbered real estate situated in the county where the association is located, or in an adjoining county, worth, exclusive of buildings, at least double the amount loaned thereon, (but not to exceed fifty per centum of the deposits and capital stock paid in, shall be so loaned or invested on real estate security;) or in such other manner as may be deemed appropriate and safe; and such association may take, receive, reserve and charge on any loan or discount made upon any note, bill of exchange or other evidences of debt, interest at the rate allowed, or that may be allowed, by the laws of this state; and that the interest may be reserved or taken in advance at the time of making the loan or discount, and that in the purchase, discount or sale of a bill of exchange, payable at another place than the place of such purchase, dis-

Interest on loans, &amp;c.

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count or sale, the current rate of discount or premium may be charged and received in addition thereto.

SEC. 17. The total liabilities to any association formed under the provisions of this act, either as principal debtor, or as security or endorser for others, of any person, company, corporation or firm, for money borrowed, including in the liabilities of a company or firm the liabilities of the several members thereof, shall at no time exceed one-fifth part of the capital stock of such association actually paid in: Provided, that the discount of bills of exchange drawn against actually existing values, and the discount of commercial or business paper actually owned by the person or persons, corporation, company or firm negotiating the same, shall not be considered as money borrowed.

Liabilities  
restricted.

SEC. 18. The trustees shall have power, by their by-laws, as often as they may deem proper, to make and declare dividends of the profits of said corporation, after paying its expenses, and reserving and setting aside from the net profits of the institution not less than one-tenth part thereof, to be held and invested as a surplus fund to meet any contingency in its business, which reservation shall continue until such surplus shall be equal to at least twenty per cent. of the amount of the full capital stock. The dividends authorized herein shall be payable to the shareholders within ten days from the time the same are so declared.

Dividends.

SEC. 19. That each stockholder of any such association shall be liable to an amount equal to the amount of stock subscribed and owned by such stockholder, in addition to said stock, for the purpose of securing the creditors of said association.

Liability of  
stockholders

SEC. 20. When any savings and loan association, organized under the provisions of this act, shall cease to do business, or the trustees thereof shall determine to close up its affairs, the assets of said association shall be distributed and disbursed by the trustees or other designated persons, as follows:

Disposition  
of assets on  
closing up.

1st. In payment of depositors.

2d. In payment of the debts of said corporation.

3d. The remainder shall be distributed proportionately among the shareholders.

SEC. 21. The trustees of all associations organized under the provisions of this act shall, within six months from and after the incorporation of such association, notify the auditor of state of the date of the organization thereof, and shall within ten days after the annual meeting thereof in each year, make, under oath, a complete statement of the condition of said association, showing the amount of deposits and capital stock, the amount of the investments, and specifying the character of the same, which statement shall be filed with the auditor of state, and published in his annual report. The trustees shall also cause said statement to be published in one or more newspapers of general circulation in the county where such corporation shall be located.

Auditor of  
state to be  
notified, &c.

Exemption  
from provis-  
ions of a cer-  
tain law.

Acts repealed

Proviso.

SEC. 22. The corporations organized under the provisions of this act shall not be subject to the provisions of the act entitled "An act to prevent the use of the names of 'savings societies,' 'societies for savings,' 'savings banks,' and 'banks for savings,' by unauthorized parties," passed May 15, 1868.

SEC. 23. That the act entitled "An act to incorporate savings societies," passed April 16th, 1867, (S. & S., 188), also "An act to amend an act entitled an act to incorporate savings societies," passed March 19th, 1868, (S. & S., 193), be and the same are hereby repealed: Provided, however, that all institutions organized under said acts, may continue their business under said acts, and without any prejudice to any rights acquired; and provided, also, that such institutions and other savings and loan institutions, organized under the laws of this state, may, if they so elect, continue their business under this act, by signifying such election under their seal to the secretary of state, (who shall record the same, and his certificate be evidence thereof,) and conforming their action thereto.

SEC. 24. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed February 26, 1873.

## AN ACT

To authorize and direct the Warden and Directors of the Ohio Penitentiary to construct Gas Works for the State Buildings within the city of Columbus, and to purchase and lay the necessary pipes.

Gas works to  
be erected on  
grounds of  
penitentiary.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the warden and directors of the penitentiary proceed immediately to erect gas works upon the grounds belonging to said penitentiary, with capacity sufficient to supply the penitentiary, state house, deaf and dumb asylum, and blind asylum; and should the said warden and directors aforesaid deem it necessary to more speedily and economically accomplish the object aforesaid, they are hereby authorized to and empowered to employ a suitable person to devise and perfect the necessary plans for the construction of the same, and the said warden and directors of the penitentiary shall, in the construction of said gas works, use convict labor not otherwise contracted for, so far as they may deem that the same may be used to advantage.

Warden and  
directors a  
committee  
for erection  
thereof.

SEC. 2. The warden and directors of the penitentiary shall constitute a committee, whose duty it shall be to procure and have laid the necessary gas pipes and fixtures from the penitentiary to the state house, deaf and dumb asylum,

and blind asylum. And for the purpose of enabling them to lay said pipes upon and through such ground, other than public, as may not be owned by the state of Ohio, said warden and directors may appropriate for the use of the state, for such purposes, the fee simple or any right or easement in any real estate, which in their judgment may be necessary for the purposes of this act, which appropriation and the procuring therefor and connected therewith, shall be regulated and governed in all respects by the provisions of that portion of the act of the general assembly, entitled an act conferring certain powers on and prescribing certain duties of the board of public works, passed April 4, 1859 (S. & C., page 1249), which relates to the appropriation of private property for public uses, and all the powers and duties in that act in this respect conferred upon the board of public works, or any member thereof, are hereby conferred upon said warden and directors for the purposes of this act. And said committee are hereby authorized to lay down the necessary pipes in any public street, alley, road, or ground in the city of Columbus, or elsewhere, without appropriation, and to do all things that may be necessary for such purpose.

Necessary premises may be appropriated.

SEC. 3. After such gas works shall be completed, it shall be the duty of the warden of the penitentiary to manufacture the necessary amount of gas to be used in the public buildings provided for in this act, and to supply the same with gas as soon as the necessary connections are made. It shall also be the duty of said warden to keep an account of the amount of gas manufactured and the cost of the same, also of the amount consumed per month at the state house and each of the institutions herein named, and report the same to the general assembly in his annual report.

Gas to be manufactured and supplied to public buildings.

SEC. 4. That it shall be unlawful for any person, maliciously or without proper authority, to break, injure, or in any manner molest any pipe, fixture or other part of such gas works so put down, or constructed; and any person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not less than twenty dollars nor more than five hundred dollars, and be imprisoned in the county jail not less than ten nor more than ninety days, at the discretion of the court.

Penalty for injuring pipes, fixtures, &c.

SEC. 5. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed February 24, 1873.

## AN ACT

To amend section thirty-four of an act "for the relief of the poor, and to repeal certain acts therein named," passed April 26th, 1872. (O. L., volume 69, page 124.)

SECTION 1. *Be it enacted by the General Assembly of the*

*State of Ohio*, That section thirty-four of the above recited act be so amended as to read as follows:

Penalty for removing paupers, &c., into any county or township without authority.

Section 34. That if any person shall transport, remove or bring, or cause to be transported, removed or brought, any poor or indigent person from any city, township or county in this state, to any other township, city or county in this state, without lawful authority, and then leave any such poor or indigent person with intent to make such city, township or county chargeable with the support of such pauper, each and every person so offending shall forfeit and pay the sum of fifty dollars for each and every such offense, for the use of the poor of the city or township in which such pauper shall be left, to be recovered by civil action in the name of the state of Ohio, before any court of competent jurisdiction.

SEC. 2. That said original section thirty-four be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed February 26, 1873.

## AN ACT

To amend section eighteen of an act to provide for the uniform government and better regulation of the lunatic asylums of the state, and the care of idiots and insane, passed and took effect April 7, 1856. (S. & C., 840.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section eighteen of the above recited act be so amended as to read as follows:

Stewards may draw from the treasury to the amount of two thousand dollars for expenses, &c., at one time.

Section 18. The treasurer of the state may, from time to time, advance to the steward on his own order, approved or indorsed by the superintendent and two of the trustees, on a warrant from the auditor of state, a sum not exceeding two thousand dollars, to meet current expenses. The steward shall keep an accurate account in detail, in a proper book, always open to the inspection of the superintendent and trustees, of all expenses paid of the sums so advanced by the treasurer, and shall settle the same with the superintendent and trustees monthly, or oftener, if required, and shall account for the whole sum of two thousand dollars before another order is approved.

SEC. 2. That said section eighteen be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed February 26, 1873.



## AN ACT

To amend section sixteen of an act entitled an act relating to ditches, passed April 12, 1871, (O. L., volume 68, p. 60,) as amended April 8, 1872, (O. L., volume 69, p. 98.)

**SECTION 1.** *Be it enacted by the General Assembly of the State of Ohio,* That section sixteen of the above entitled act be amended so as to read as follows:

**Section 16.** For the purpose of keeping any ditch open and in good repair that is now or may hereafter be constructed under any laws of the state, any two resident land owners taxed for the construction thereof, may make their statements in writing to the county auditor, setting forth the necessity of cleaning out and repairing such ditch, what repair they deem necessary, together with an estimate of the amount it will take to perform the same. Upon receiving said statement the county auditor shall forthwith appoint one disinterested freeholder of the county through which said ditch passes, who shall be sworn to go upon the line of said ditch and examine the same carefully, and make his report in writing to the county auditor, fixing the amount that each land owner (whose lands were taxed for the construction thereof) should contribute to make the repairs of said ditch according to the benefits to be received, taking into consideration any neglect on the part of said land owners to keep said ditch clear of obstruction other than natural; also the amount of work each land owner should be required to perform in repairing said ditch. Upon receiving said statement in writing, of said disinterested freeholder, the county auditor shall forthwith notify the owner or owners of said tract or tracts of land, or their agent or agents, so far as their residence is known to said auditor, directing him, her or them to clean out and repair so much of said ditch as may have been assigned him, her or them, within six months of the date of said notice, said notice to be in writing, and sent to said owner or owners, agent or agents, by mail or otherwise. But if the residence of said owner or owners of any such tract or tracts of land, or if his, her or their agent is not known to the auditor, it shall be his duty to cause to be posted up in at least three of the most public places in the township or townships in which said ditch may be located, written notice of the time for the cleaning out and repair of said ditch, with the amount that will be levied against said tract or tracts of land. If said ditch shall not be cleaned out and repaired within the time specified, the county auditor shall appoint some disinterested person, a resident of the county in which said ditch, or some part thereof, is located, who shall be sworn to go upon the line of said ditch and examine the same carefully, and make his report to the county auditor in writing; and if such report declares the ditch to be cleaned out and repaired to its original capacity, the owners of the land assessed for the cleaning of and re-

How ditches shall be kept in repair.

County auditor to give notice, &c.

In default, to appoint examiner, &c.

pairing the same shall be discharged from further obligations under said application and notice; but if said ditch is not cleaned out and repaired to its original capacity, and as set forth in said application and notice, then in that case the county auditor shall assess the amount as estimated in said statement of said disinterested freeholder, against said delinquent tract or tracts of land, and collect the same as other taxes are collected. And the county auditor shall forthwith give notice, and sell said cleaning out and repair of said ditch to the lowest bidder, according to the provisions of the act relating to ditches, passed April 12, 1871. The person or persons appointed by the county auditor to examine said ditch or ditches, shall be entitled to receive for his services two dollars per day, to be paid out of the county treasury on the warrant of the county auditor. It shall be the duty of the county auditor to file and keep in his office, subject to inspection, all the papers provided for in this section: Provided, that when the cleaning or repairing of any ditch under this act benefits any public or corporate road or railroad, the commissioners shall apportion to the county, if a county, state or free turnpike road, to the township if a township road, to the company if a corporate road or railroad, such portion of the costs and expenses thereof as to private individuals, and require them to pay said costs and perform said labor in like manner as individuals.

**Fees of examiner.**

**Apportionment of costs, &c.**

SEC. 2. That said section sixteen, to which this is an amendment, is hereby repealed.

SEC. 3. This act to take effect on its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed February 27, 1873.

## AN ACT

To amend an act entitled "An act concerning divorce and alimony," passed March 11, 1853. (S. & C., p. 513.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section nine of an act entitled "an act concerning divorce and alimony," passed March 11, 1853, as amended April 15, 1857, be so amended as to read as follows:

Section 9. That the said court while in session, or any judge thereof during vacation, upon sufficient notice to the opposite party, shall have power to grant alimony to the wife for her sustenance, and an allowance to her for the support of minor children dependent upon the husband for support and not provided for by him, during the pendency of a petition for divorce, or alimony aique, filed for any of the causes aforesaid, and award execution therefor; and the wife may

**Alimony during pendency of petition.**

*amended  
2.12.1873*

sell and assign the order for said alimony to any person or corporation having possession claiming an interest in, any property, real or personal, of the husband, out of which the wife seeks to be paid, her, may be made party defendant in said action, ever it may be made to appear to such court that there is danger of the husband so disposing of his property, or a part thereof, as to defeat the action of the wife for alimony, the said court may allow an injunction to prevent the same, with or without bond, at the discretion of said court or judge.

SEC. 2. That said original section nine be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed February 27, 1873.

## AN ACT

To amend section three (3) of an act entitled "An act to amend an act to exempt the homestead of families from forced sale on execution to pay debts, passed March 23, 1850," passed April 9, 1869. (O. L., vol. 66, p. 49.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section three (3) of the above recited act be amended so as to read as follows:

Section 3. That it shall be lawful for any resident of Ohio, being the head of a family and not the owner of a homestead, to hold exempt from levy and sale as aforesaid, personal or real property, to be selected by such person, his wife, agent or attorney, at any time before sale, not exceeding five hundred dollars in value, in addition to the amount of chattel property by law exempt; the value of said property to be estimated and appraised by two disinterested householders of the county, to be selected by the officer holding the execution, who shall be sworn by such officer impartially to make such appraisement.

Property  
exempt from  
levy, etc.

SEC. 2. That section three (3) of the above entitled act of which this is amendatory be and the same is hereby repealed.

SEC. 3. That this act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed February 27, 1873.

## AN ACT

To amend section one of an act entitled "An act for the protection of furs, and to repeal section one of an act passed April 15, 1869." (S. & S., p. 15.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section one of the above recited act be so amended as to read as follows:

When unlawful to catch and kill muskrat, mink or otter.

Section 1. That it shall be unlawful for any person, between the fifteenth day of April and fifteenth day of February following, to trap, catch, kill, or pursue with such intent, on the premises of another, any muskrat, mink or otter, or at any time to deposit or place any poison outside any building for the purpose of poisoning any such animal or other game; and it shall be unlawful for any person, at any time, to enter upon the premises of another without his consent, with a view of trapping, hunting, killing, or pursuing with intent to kill any such animal or animals; and it shall, furthermore, be unlawful for any person to enter upon the premises of another without his consent, and destroy, tear down, or in any manner injure the muskrat heaps or houses on such premises. Any person offending against any one of the provisions of this act, shall be fined in any sum not exceeding twenty-five dollars for each offense, nor less than two dollars, and costs of suit.

Penalty.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed February 27, 1873.

## AN ACT

To amend section thirty-two of an act entitled "An act to regulate the election of state and county officers," passed May 3d, 1852. [S. & C., 539.]

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section thirty-two of the act entitled an act to regulate the election of state and county officers, passed May 3d, 1852, be so amended as to read as follows:

Tie votes for county officers and members of legislature to be determined by lot.

Section 32. If any number of persons greater than the number of the county officers directed to be filled shall be equal in votes, the clerk and justices or judge and justices aforesaid, as the case may be, shall determine by lot which of the persons shall be duly elected; and if at any election for senators or representatives to the General Assembly there be no choice in any instance on account of two or more persons receiving an equal number of votes, the clerk of the

court issuing the certificate of election, and county auditor, with two justices of the peace of the county, shall publicly determine by lot who of those having such equal number of votes shall be elected; said decision by lot shall be made in the office of the clerk aforesaid, at 10 o'clock A. M., on the eighth day after said election, and in such case said clerk shall not be required to forward the returns of said election, until said decision by lot has been made.

SEC. 2. Said original section thirty two is hereby repealed.

SEC. 3. This act shall be in force from and after its passage.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed March 6, 1873.

## AN ACT

To amend sections one and seventeen of an act establishing boards of County Commissioners, and prescribing their duties.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section one of the above entitled act be so amended as to read as follows :

Section 1. That there shall be established in each county in this state a board of county commissioners, to consist of three persons, to be elected by the qualified electors thereof, at the annual election in October, who shall hold their offices for three years, to begin on the first Monday of December next after their election, except as hereinafter provided.

Number of  
board and  
term of office.

SEC. 2. That section seventeen of said act be amended so as to read as follows :

Section 17. That in all cases where any bridge on any state or county road, or public building, the property or under the control or supervision of any county within this state, shall be injured or destroyed, or where any state or county road or public highway has been or shall be injured or impaired by placing or continuing therein, without lawful authority, any obstruction, or by the changing of the line, filling up or digging out of the bed thereof, or in any manner rendering the same less convenient or useful than it had been previously thereto, by any person, persons or corporation, such person, persons or corporation, shall be subject to an action for damages, and the county commissioners of the proper county are hereby authorized to sue for and recover of such person or persons or corporation, so causing or having caused such injury or impairment, such damages as shall have accrued by reason thereof, or as shall be necessary to remove such obstruction or repair such injury, and the money so recovered, shall, when collected by

Commission-  
ers to bring  
suits in cer-  
tain cases.

Proviso.

the proper officer, be paid into the treasury of the proper county, and shall be appropriated by the commissioners thereof to repairing such bridge, building or road, or removing such obstruction, as the case may be: Provided, the court may, in case of a recovery, make such order as in its discretion may be deemed necessary to repair the injury or remove the obstruction complained of; and, provided further, that the statutes of limitation shall not run or be deemed to have run in favor of any person or corporation so obstructing or continuing an obstruction in, or causing injury to, or having done the same respecting any such road or public highway.

SEC. 3. That said original sections be repealed, and this act shall take effect on its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed March 7, 1873.

## AN ACT

To amend section one hundred and five of an act entitled "An act to establish a code of civil procedure," passed March 11, 1853, as amended March 6, 1857. (S. & C. Stat., 982.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section one hundred and five of said act be so amended as to read as follows:

Pleadings  
to be sub-  
scribed; in-  
terrogatories  
annexed.

Section 105. Every pleading in a court of record must be subscribed by the party or his attorney. Any party, whether plaintiff or defendant, may annex to his pleading, other than a demurrer, interrogatories pertinent to the issue made in the pleadings, which interrogatories, if not demurred to, shall be plainly and fully answered under oath by the party to whom the interrogatories are propounded, or in case a corporation, by the president, secretary or other officer thereof, as the party propounding the same may require; when annexed to the petition, they shall answer within the time limited for answers to the petition; when annexed to the answer they shall be answered within the time limited for a reply; when annexed to the reply, they shall be answered within the time allowed for an answer, but further time may be allowed in all cases by the court, or a judge thereof in vacation. Answers to interrogatories may be enforced by non-suit, judgment by default or by attachment, as the justice of the case may require; on the trial, such answer, so far as the same contains competent testimony on the issue or issues made, may be used by either party.

SEC. 2. That said original section one hundred and five be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed March 7, 1873.

## AN ACT

To authorize and require township trustees, and city or village councils, to let or lease town halls, in certain cases.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That it shall be lawful and it is hereby made the duty of township trustees, or the council of any city of the second class, or any incorporated village within this state, in which any town hall has been or may hereafter be erected at the public expense, by taxation, are hereby authorized and required to let or lease the same, any part thereof not otherwise occupied, and without interfering with the transaction of public business therein, any room or parts of rooms in such building, to responsible parties for private offices, or for the purpose of public lectures of a scientific or literary character, for an admission fee charged at the door, upon such terms as in their judgment will best subserve the public interest; and it shall furthermore be their duty to require such rent agreed upon to be paid in advance monthly, quarterly or per annum, into the township, city or village treasury, for general township, city or village purposes, and be by said boards applied in the same way that other funds are applied.

Halls or  
apartments  
to be let or  
leased.

SEC. 2. Whenever any such town hall building, in whole or in part thereof, or any room or rooms, or parts of rooms therein, shall be used or occupied by any city or village or township officer, or by a justice of the peace, or by any mayor of any city or incorporated village, for the transaction of any other business than that required in the administration of public affairs, either by himself, or partner in business, it shall be the duty of the trustees of such township, or council of such city or incorporated village, to collect a proportionate amount of rent from such public officer or parties in business, such sum as may be just and equitable.

Collection  
of rent,  
when used  
for certain  
purposes.

SEC. 3. This act to take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed March 7, 1873.

## AN ACT

Supplementary to the act entitled an act to amend sections eight, ten and eleven of an act entitled "An act providing for recording, printing and distributing the Journals of the General Assembly, and the Laws and Public Documents," passed April 8, 1856, and to repeal the act therein named. (S. & C., page 827; S. & S., page 430.)

Annual  
report of  
Athens  
Lunatic  
Asylum.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That there shall be printed in pamphlet form, the following number of the annual report of the superintendent of the lunatic asylum at Athens: For the superintendent, 800 copies; for the General Assembly, 800 copies; for the state librarian and executive officers, 100 copies.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed March 7, 1873.

## AN ACT

To amend an act entitled "An act supplementary to an act entitled an act defining the jurisdiction and regulating the practice of Probate Courts," passed March 4, 1853, (S. & S., 625), amended February 20, 1866, (O. L., 1872, p. 105.)

Procedure  
on presenta-  
tion of claim  
to probate  
court.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section one of the above recited act be so amended as to read as follows:

Section 1. That whenever an executor or administrator shall present to the probate court for its allowance, any debt or claim of which he is the owner, against the estate which he represents, amounting to fifty dollars or more, it is hereby made the duty of the judge of said probate court to fix a day, not less than four weeks nor more than six weeks from the presentation of said debt or claim, when the testimony touching said debt or claim shall be heard; and said probate court shall forthwith issue an order directed to said executor or administrator, requiring him to give notice in writing to all the heirs of said decedent interested in said estate, and such creditors as are therein named, which notice shall contain a statement of the amount claimed, and designate the



time fixed for hearing the testimony, and shall be served upon the persons named in said order at least twenty days before the time fixed for such hearing; and if any of the persons mentioned in said order are non-residents of the county, service of said notice may be made upon them by publication for four consecutive weeks in a weekly newspaper, published or circulating in said county.

SEC. 2. That section one of the above recited act be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed March 10, 1873.

## AN ACT

To amend section one and two of an act entitled "An act requiring county Auditors to make returns to the Auditor of State of the amount of fees received by county officers," passed March 9th, 1861. (S. & S., 372.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That sections one and two of an act entitled an act requiring county auditors to make returns to the auditor of state of the amount of fees received by county officers, passed March 9th, 1861, be so amended as to read as follows:

Section 1. It is hereby made the duty of each county treasurer, recorder, sheriff, prosecuting attorney, probate judge, commissioner, and clerk of the court of common pleas of this state, to make returns under oath to the county auditor of their respective counties, on the first Monday of September of each year, of the amount of fees and moneys received by them, or due them, during the year next preceding the time of making such return.

County officers to return amount of fees to county and its

Section 2. That it shall be the duty of each county auditor of this state on or before the first Monday of October, in each year, to make a certified statement to the auditor of state of the amount of fees and moneys received or due the county treasurer, recorder, sheriff, prosecuting attorney, probate judge, commissioner and clerk of the court of common pleas of his county; and also a like statement verified by his affidavit of the amount received by or due him.

County auditors to make returns to state auditor.

SEC. 3. [2] That the original sections one and two to which this is amendatory are hereby repealed.

SEC. 4. [3] That this shall take effect upon passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed March 10, 1873.

## AN ACT

To amend section one of an act entitled "An act to regulate the practice of Dentistry in the state of Ohio," passed May 8, 1868. (S. & S., 523.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section one (1) of the above named act be so amended as to read as follows:

No person shall practice dentistry without a diploma.

, as to Dentists' fees and

Section 1. That it shall be unlawful for any person to practice dentistry in the state of Ohio for compensation, unless such person has received a diploma from the faculty of a dental college duly incorporated under the laws of this or any other state of the United States or foreign country, or a certificate of qualification issued by the state dental society, or by any local society auxiliary thereto; and provided, that in all cases where any person has been continuously engaged in the practice of dentistry for a period of five years or more, such person shall be considered to have complied with the provisions of this act and the act to which this is amendatory.

SEC. 2. That said original section one (1) be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed March 10, 1873.

## AN ACT

To amend sections two and ten of an act entitled "An act to reorganize the Institution for the Education of the Blind, and to repeal certain laws heretofore passed," passed and took effect April 6th, 1866. (63 vol. Stat., 170; S. & S., pp. 47 and 48.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That sections two and ten of the above recited act be so amended as to read as follows:

Trustees to appoint officers and fix their salaries.

Section 2. The board of trustees shall appoint one of its members as president, to preside at its meetings, and another of its members as secretary, whose duty it shall be to keep a record of the meetings and proceedings of said board, and attest the same. The board shall have power to appoint, and for good cause to remove the superintendent. They, with the superintendent, shall make such general rules as they may deem necessary for the successful management of the institution. They shall, upon the nomination of the superintendent, appoint the teachers, steward, matrons and physician, and shall fix the compensation of each, and of the

superintendent, keeping within the amounts following: Superintendent, twelve hundred dollars; steward, eight hundred dollars; physician, three hundred dollars; matron and assistant matron not exceeding four hundred dollars each.

Section 10. Those admitted as regular pupils must be at least six years of age, and may be permitted to remain such portions of their minority yet remaining, as in the judgment of the trustees and superintendent their capacity, progress and conduct may justify; provided that pupils now connected with the institution may be permitted to finish the time allowed them according to the law of April 6, 1866. Persons over twenty-one years of age may be received for one year for the purpose of learning any trade or employment taught in the mechanical department; and they may also receive instruction in one or more studies, if this can be done without interfering with the purpose for which they are admitted. In addition to the one year specified for those over twenty-one years of age, adult females may be allowed to remain three years more, if their capacity shall render it advisable; provided, that nothing herein contained shall be construed to prohibit the admission of pupils who are not residents of Ohio, if there shall be accommodation therefor, upon the payment of such sums and upon such terms as the trustees may determine; and the money so received from pupils not residing in this state shall be paid over to the steward, receipted for by him, and by him certified into the state treasury, to the credit of the general revenue fund. It shall be the duty of such steward to make a correct record of all such moneys received by him in a book to be provided for that purpose, which record shall be open for the inspection of any person wishing to examine the same.

SEC. 2. That said original sections two and ten of the above recited act be and are hereby repealed.

SEC. 3. This act shall take effect from and after its passage.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed March 10, 1873.

Who admitted as pupils, and how long to remain.

*Amended*

*21473-1111*

Steward to make and keep record.

## AN ACT

To amend section two hundred and five of an act entitled "An act of the jurisdiction and procedure before Justices of the Peace, and of the duties of constables in civil courts," (S. & C., 805,) passed March 14, 1853.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section two hundred and five of an act entitled "an act of the jurisdiction and procedure before justices of the peace, and of the duties of constables in civil

courts," passed March 14, 1853, be amended so as to read as follows :

Alphabetical index to be kept by justices of the peace.

Section 205. Every justice of the peace shall keep an alphabetical index to his docket, in which he shall enter the names of the parties to each judgment, directly and inversely, with a reference to the page of the entry. The names of each party, plaintiffs and defendants, shall be entered in the index in the alphabetical order of the first letter of the family names ; he shall number the cases progressively on his docket, and shall correspondingly number the papers in each case ; he shall also keep the entire papers in each action together, and in packages of proper and convenient size, and in the order in which the cases are numbered on his docket.

SEC. 2. That section two hundred and five of the original act to which this is amendatory, be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed March 10, 1873.

## AN ACT

To amend section eleven of an act entitled "An act to reorganize the Institution for the Education of the Blind, and to repeal certain laws heretofore passed," passed and took effect April 6th, 1866. (63 vol. Stat., 170 ; S. & S., p. 49.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section eleven of the above recited act be so amended as to read as follows :

Pupils, how supported.

Section 11. All pupils admitted into the institution, who have a legal residence in the state, shall be supported at the expense of the state : Provided, that parents and guardians of such pupils shall be required to keep them comfortably and neatly clothed, and to pay their traveling and incidental expenses ; and if such parents or guardians shall neglect or refuse so to do, the steward of the institution is hereby authorized to furnish the requisite clothing and pay the said expenses. For the clothing so furnished and the expenses thus incurred, the steward shall make out a bill of items, charging the same to the current expense account of the institution, from which the amount shall be paid. The account so drawn up, signed by the steward, countersigned by the superintendent, and sealed with the seal of the institution, shall be forwarded to the auditor of the county from which the pupil came, who shall pay the amount of said bill out of the county funds to the steward of the institution, to be cred-

Account for clothing, &c., how collected.

ited to the current expense fund; and said auditor shall then proceed to collect the same in the name of the state of Ohio as other debts are collected.

SEC. 2. That original section eleven of the above recited act be and is hereby repealed.

SEC. 3. This act shall take effect from and after its passage.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed March 10, 1873.

## AN ACT

Supplemental to an act entitled "An act to provide for the creation and regulation of Incorporated Companies in the State of Ohio," passed May 1, 1852.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the incorporation of all companies heretofore formed for any purpose recognized by the laws of Ohio, where said company or companies have been doing business in good faith, as incorporations, for at least three years, be and the same are hereby declared to be legal and valid in all courts of law or equity in this state or elsewhere, although the certificate of incorporation of such companies may not be executed in conformity with the laws of Ohio: Provided, such incorporated company shall file with the secretary of state, within six months from the passage of this act, an amended certificate of incorporation, executed in conformity to the laws of the state regulating such incorporations.

Companies with defective certificates legalized after doing business three years.

Amended certificate to be filed.

SEC. 2. This act to take effect and be in force from and after its passage.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed March 10, 1873.

## AN ACT

Supplementary to "An act for the punishment of certain offenses therein named," passed March 8, 1831. (S. & C., 426.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That if any officer in this state, authorized by law to charge or receive fees or costs for his official duties, shall knowingly charge, ask, demand or receive any more or

Penalty for charging or receiving excess of fees or costs.

greater fees or costs than are allowable by law for such official duties, such officer so offending, shall be deemed guilty of a misdemeanor, and upon conviction thereof be fined in any sum not exceeding one hundred dollars, or imprisoned in the jail of the county not exceeding ten days, or both, at the discretion of the court, and shall be answerable to the party injured, in treble damages, in any court of competent jurisdiction.

Demand for  
itemized bill  
must be com-  
plied with.

SEC. 2. That in all cases when demanded by any person liable to pay fees or costs to any officer as aforesaid, it shall be the duty of such officer, without charge, to make out, sign and deliver to such person, an itemized bill of such fees and costs; and no person shall be compelled, after such demand, to pay such fees or costs until the said itemized bill is so made and delivered, with a receipt for fees and costs paid.

SEC. 3. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed March 10, 1873.

## AN ACT

To amend section one of an act entitled "An act to amend an act to prevent the killing of wild deer," passed and took effect February 19, 1866. (S. & S., p. 12.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section one of the act above referred to be so amended as to read as follows:

Unlawful to  
kill deer, ex-  
cept in No-  
vember and  
December.

Section 1. That it shall be unlawful for any person, at any time before the first day of November, and after the first day of January, to catch, kill or destroy, or to pursue with such intent, any wild deer, or to have in possession or to expose to sale any of said game mentioned in this act during the season when the killing, injuring or pursuing of the same is herein prohibited.

SEC. 2. That section one of the act to which this is an amendment be and the same is hereby repealed.

SEC. 3. This act shall take effect from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed March 12, 1873.

## AN ACT

To amend section five hundred and forty of the Municipal Code, as amended April 18, 1870.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section five hundred and forty of the municipal code, as amended April 18, 1870, be so amended as to read as follows :

Section 540. No public improvement provided for in chapters forty-nine and fifty, the cost or part of the cost of which is to be specially assessed on the owners of adjacent property, and no order appointing assessors of damages or confirming their report, shall be made without the concurrence of two-thirds of the whole number of the members elected to the council, unless two thirds of the owners to be charged shall petition in writing therefor; and in incorporated villages having a less population than four thousand at the last federal census not situate in a county containing a city of the first class, no special assessment shall be made except for sidewalks, unless first having received the assent of a majority of the owners to be charged therewith.

Concurrence  
of two-thirds  
of council  
requisite in  
certain cases.

SEC. 2. Section 540, as amended April 18, 1870, is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed March 12, 1873.

## AN ACT

To amend section five (5) of an act entitled "An act making provision for the incorporation of cemetery associations," passed February 24, 1848. (S. & C., 226.)

*Re/s 9 Lu/s.*  
*Ord 72:103*

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section five (5) of the above entitled act be so amended as to read as follows :

Section 5. That such association shall be authorized to purchase, to take by gift or devise, or to appropriate and to hold, not exceeding one hundred acres, which said land shall be exempt from execution, from taxation, and from being appropriated to any other public purpose, if used exclusively for burial purposes, and in no wise with a view to profit: Provided, if it be necessary to acquire said one hundred acres, or any part thereof, by appropriation, such proceedings to so appropriate shall be governed in all respects by the provisions of an act entitled "an act prescribing the mode of assess-

Lands of  
cemetery  
associations :  
purchase, ex-  
emption, etc.

Use of in-  
comes, &c.

ment and collection of compensation to the owners of private property appropriated by and to the use of corporations," passed April 23, 1872. But no land shall be appropriated under this provision until the court shall be satisfied that suitable premises cannot be obtained by contract upon reasonable terms, and no land shall be appropriated upon which there may be any dwelling house, barn, stable or other farm building, or upon which there shall be any orchard or nursery, or any valuable mineral or other medical spring; or any well actually yielding oil or salt water; nor shall any land be appropriated within two hundred yards of any dwelling house. After paying for such land, all future receipts and incomes of such association whether from sale of lots, from donations or otherwise, shall be applied exclusively to laying out, preserving, protecting and embellishing the cemetery and the avenues leading thereto, and to the erection of such buildings as may be necessary for the cemetery purposes, and to paying the necessary expenses of the cemetery association; no debts shall be contracted in anticipation of future receipts, except for originally purchasing, laying out, inclosing and embellishing the grounds and avenues, for which a debt or debts may be contracted, not exceeding ten thousand dollars in the whole, to be paid out of future receipts; and such association shall have power to adopt such rules and regulations as they shall deem expedient for disposing of and for conveying burial lots; provided, however, that any person not already the owner of a lot in said cemetery, shall have the right to purchase any lot not before sold by said cemetery association, and to have such lot conveyed to such purchaser by said association upon tender of the usual price affixed upon said lot by said association.

SEC. 2. That said original section 5 be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed March 12, 1873.

## AN ACT

To amend an act entitled "An act supplementary to an act to provide for a uniform standard of weights and measures," passed April 13, 1865. (S. & S., page 927.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section one of an act entitled "an act supplementary to an act to provide for a uniform standard of weights and measures," be so amended as to read as follows:



Section 1. That the hydrometer used by United States inspectors for ascertaining the strength of spirituous liquors, be and is hereby established as the standard hydrometer to be used in the inspection of spirituous liquors in this state.

Standard hydrometer established.

SEC. 2. That original section one be and the same is hereby repealed,

SEC. 3. This act shall take effect from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed March 14, 1873.

## AN ACT

To provide for supplying lost or destroyed Records of Cities, Towns or Villages.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That it shall be lawful for any ten persons, their agents, or attorneys, owning or being interested in any lots of land in any city, town or village, where the original plat or any addition thereto has been recorded in the records of the county in which such city, town or village is situated, and the records and original plat thereof have been lost or destroyed, to make application in writing to the county commissioners of such county, to have the records of the plat or plats so lost or destroyed as aforesaid, supplied, which said application shall be filed with the auditor of such county.

Application to supply lost or destroyed records.

SEC. 2. That upon the filing of the application as aforesaid, it shall be the duty of the auditor of such county to give notice by publication for two consecutive weeks, in some newspaper published and of general circulation in said county, or if there be no newspaper published in such county, then in some newspaper of general circulation in such county, of the filing of the application as aforesaid, and also to notify the county commissioners of such county thereof.

Publication of notice of such application.

SEC. 3. That it shall be the duty of the commissioners of such county, upon the filing of the application as aforesaid, and the giving of the notice thereof as aforesaid, forthwith to employ a competent surveyor, who, after being duly sworn to well and faithfully discharge the duties assigned him, shall proceed to re-plat such city, town or village, according to the original plan or plat of the same; and for the purpose of enabling him more easily to find the lines and corners of streets, lanes, alleys and lots, said surveyor is hereby authorized to call and examine witnesses under oath or otherwise, and when he shall have fully performed all the duties assigned him, and made a plat of such city, town or village, said surveyor shall make and attach his certificate to such plat that the same is a correct copy of the original plat of such city, town or village, as he verily believes, together with the costs

County commissioners to appoint surveyor, &c.

Duties of surveyor.

and expenses of making the same, and forthwith file it with the auditor of said county.

Record of  
plat and  
certificate.

SEC. 4. That upon the filing of the plat and certificate by the surveyor as aforesaid, the commissioners of said county shall cause the same to be recorded in the proper records in the office of the recorder of said county, and when the plat and certificate so as aforesaid made and filed shall have been recorded as aforesaid, the record or a copy thereof, certified to by the recorder of said county, shall be *prima facie* evidence of the plat of said city, town or village, in all the courts of this state.

Record of  
proceedings  
by county  
auditor.

SEC. 5. That it shall be the duty of the auditor of said county to keep a full and complete record of the proceedings as aforesaid in the commissioners' journal, and for which he shall receive such compensation as is now allowed by law for similar services, and that the surveyor and recorder aforesaid shall receive and be paid out of the county fund of such county, on the order of the county auditor, for their services, such fees as are now allowed by law for similar work.

SEC. 6. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed March 17, 1873.

## AN ACT

Supplementary to an act entitled an act to amend sections 61, 271, 566, 570 and 663, and repeal section 669 of the municipal code. (O. L., vol. 67, pages 32 and 33.)

Oath, &c., of  
county treas-  
urer acting  
as city treas-  
urer.

Examination  
of city and  
school funds.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That in all cases wherein the treasurer of a county becomes treasurer of the city and school funds by virtue of said act, he shall qualify in every respect as if he were elected to said office, by making oath, and giving separate bonds acceptable severally to the city council and school board of such city, for a faithful discharge of the duties and disbursements of the funds; and in all examinations of the county funds by the auditor and county commissioners as now provided by law, there shall at the same time and manner be an examination of the city and school funds by at least one person for each fund, said person or persons to be appointed by the county commissioners, and in examination of the county treasury by order of the probate judge, the accountant appointed by said judge, shall count, examine and certify as to the condition of the city and school funds at the same time and in the same

manner as is now required by law in regard to the county funds.

SEC. 2. This act shall take effect from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed March 17, 1873.

## AN ACT

To amend the first section of an act entitled an act to amend the fourth, fifth and sixth sections of an act passed April 30, 1852, entitled an act to provide for the election of Prosecuting Attorneys, and prescribing their duties, as amended April 30, 1862, passed April 13, 1865. (S. & S., 633 and 34.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section one of said act be so amended as to read as follows:

Section 1. The prosecuting attorney for each county in this state shall annually receive for his services in civil and criminal business, which now are or hereafter may be required of him by law to be performed, to be paid out of the treasury of his county on the order of the county commissioners and the warrant of the county auditor, at such times and in such installments as the county commissioners may direct, the following compensation, and no more, to be graduated according to the federal census, to wit: In the counties of Hamilton, Cuyahoga and Lucas, not exceeding two thousand dollars each; in the counties of Franklin and Montgomery, not exceeding fifteen hundred dollars each; in each county containing less than twenty thousand inhabitants, not exceeding four hundred dollars; in any other county, not exceeding two dollars for each one hundred inhabitants which such county may contain: Provided, that the county commissioners shall allow prosecuting attorneys ten per cent. on all money collected on fines, forfeited recognizances, and costs collected of defendants in criminal cases; provided further, that the sum to be paid to such prosecuting attorney as commission for collecting fines and forfeited recognizances, shall not exceed one hundred dollars in any one case.

Compensation of prosecuting attorneys.

Percentage on collections.

SEC. 2. That section one of said act of April 13, 1865, be and the same is hereby repealed.

SEC. 3. This act shall take effect on its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed March 17, 1873.

Repealed.  
71:14

AN ACT

To amend section twelve of an act entitled "An act to authorize counties, cities, incorporated villages and townships, to build railroads, and to lease and operate the same," passed April 28, 1872. (O. L., vol. 69, page 84.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section twelve of the above recited act be so amended as to read as follows:

Provisions  
applicable to  
cities, vil-  
lages and  
townships.

Section 12. The provisions of this act are hereby so extended as to authorize cities, incorporated villages and townships, to vote for the construction of, and to construct a railroad or railroads, and to operate, lease or sell the same, and to borrow a fund therefor to the extent, in the manner and subject to the conditions and provisions of this act in relation to counties; and all the powers conferred by this act, or the act to which this is amendatory, upon counties, shall be and hereby are extended to and conferred upon townships, cities and incorporated villages; and all acts which county commissioners are authorized or required to do in relation to or on behalf of counties in proceedings by counties under this act, or the act to which this is amendatory, the council of such city or village, or trustees of such township, as the case may be, are hereby authorized and required to do in relation to or on behalf of such city, village or township, as the case may be, in proceedings by such city, village or township under this act, or said act to which this is amendatory: Provided, that in case of incorporated villages and townships having a population of less than one hundred and fifty tax paying electors at the last state election, when a written request to do so shall be made by twenty-five tax-paying electors of such villages or townships, and in all other townships and villages by fifty tax paying electors, it shall be the duty of the trustees of any township or incorporated village, and the mayor of any city or incorporated village, to call a meeting of the electors of such township, village or city, as provided in section two of this act for counties. The bonds contemplated in this act, if issued by a city or incorporated village, shall be executed by the mayor and clerk or recorder thereof as the case may be, and if issued by a township, they shall be executed by the trustees and clerk thereof; and if any city, incorporated village or township issuing such bonds shall have a seal, the same shall be impressed upon each of said bonds, as provided for counties in section three of this act. The bonds after execution shall be placed in the hands of the state treasurer, as in the case of county bonds, and subject to the same provisions, except as herein-after stated; whereupon the trustees of such township, or the mayor of such city or village, with the advice and concurrence of the council of such city or village, shall proceed to contract for the construction of the road in question, with the

The bonds.

same powers and governed by the same provisions as in the case of county commissioners under this act. The state treasurer shall deliver the bonds of such city, incorporated village or township, upon the written order of the council of such city or village, or trustees of such township, as the case may be, in accordance with the provisions of section five of this act, and upon no other conditions, except that all acts authorized or required by said section five to be done by the county commissioners, shall be done by the council of such city or village, or trustees of such township, as the case may be: Provided, that in cases of cities or villages, one terminus of said road shall be located beyond the limits of said corporation, if so determined by a majority of the votes of the electors of said city or incorporated village; and provided, that the aggregate of the indebtedness of any city, incorporated village or township incurred for railroad purposes under this act, shall not exceed five per cent. of the taxable value of the same, including any appropriation which the county in which said city or incorporated village or township is situated shall make, and also that the commissioners of any county, the council of any city or incorporated village, and the trustees of any township which now own stock in any railroad company, shall be authorized to sell the stock of the same in such railroad company on such terms as they may deem to be for the interest of said county, city, incorporated village or township respectively, and apply the proceeds to the construction of any railroad authorized to be constructed agreeably to and under the provisions of this act; provided, that before said sale shall be made, the question whether said stock shall be sold shall be submitted to the qualified voters of such county, township, incorporated village or city, in pursuance of section two of this act, and, provided, a majority of the electors voting at said election shall vote in favor of said sale.

Certain conditions.

SEC. 2. That original section twelve of the above recited act is hereby repealed; provided, that the repeal of said section shall not affect any right or liability accruing or accrued, nor any matter or proceeding had or commenced under the provisions thereof. And any proceedings or work commenced under said sections shall be prosecuted and completed as if said repeal had not been made; provided, further, that any proceeding now pending under said section may at any stage thereof be made to conform to the provisions of this act, and proceed thereunder.

Repeal.

SEC. 3. This act shall take effect from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed March 31, 1873.

## AN ACT

To declare, supplement, and amend certain sections of an act entitled an act to authorize counties, cities, incorporated villages and townships, to build Railroads, and to lease and operate the same, passed April 23, A. D. 1872.

Construction  
of act of  
April 23, 1872.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That it was and is within the intent, purpose and meaning of the above recited act, that counties, cities, incorporated villages and townships should thereby be authorized and empowered to have an election on a single proposition for the construction of one railroad or more than one railroad, and to build, lease, operate or sell one railroad or more than one railroad, at the same time, in the manner and subject to the limitations and conditions in said act contained; and that all the acts, powers, rights, duties and privileges by said act granted to and vested in the commissioners, auditors and electors of the counties for the construction, sale or lease of railroads, should also be granted to and vested in the council, trustees, auditors, clerks, recorders, and electors of cities, incorporated villages and townships, for the same purpose, so far as necessary or applicable; and the same are hereby so granted and vested, and cities, incorporated villages and townships hereby authorized and empowered to build and operate, sell or lease one or more railroads accordingly; and all acts and proceedings heretofore begun or had, in accordance with the provisions of the act aforesaid, for the construction, sale or lease of one or more railroads, by any county, city, incorporated village or township, or the proper officers and electors thereof, as aforesaid, are hereby declared and shall be held legal, valid and binding, to all intents and purposes, and may be carried out and perfected accordingly, and further proceedings had and proper contracts made in accordance with the provisions of said act, and of this act, for the construction of such railroads, and also for the sale or lease thereof, together or separately, either before or after their construction, or as a consideration for their construction in the contracts therefor; and the bonds issued now or hereafter for the construction of any such railroads may be divided between them, and paid over for the construction of one or more of them, in the manner prescribed by this act and the act to which this is supplementary, in such amounts or proportions as are or shall be designated in the notice of election for their construction.

Proceedings  
legalized.

Questions to  
be submitted  
to voters.

SEC. 2. That if at any time the commissioners of any county, or the trustees of any city, incorporated village or township, shall deem it unnecessary to continue the proceedings for the construction of any one or more railroads theretofore voted for by their county, city, village or township, but not duly contracted to be built, or shall deem it best to build a railroad on a line differing from all or either of such original roads voted for, they may submit to the qualified voters of

such county, city, village or township, as the case may be, the question of abandoning such road or roads so deemed unnecessary; and also, at the same or some other time, the separate question of transferring and applying, in whole or in part, the bonds appropriated or issued, if any, as aforesaid, for the construction of such original road or roads, deemed unnecessary, to the construction of such of said original road or roads as they shall deem desirable, or to the construction of such different road or roads, or to both, by publishing a notice in some newspaper of general circulation in the county where said original roads were voted upon, for not less than thirty days, requiring a special election to be held at the usual places of voting, within ten days after the expiration of such notice, to determine either or both of the questions aforesaid that shall be submitted to the said voters. The said notice shall contain a summary statement of the road or roads deemed unnecessary, and when the question is submitted of the transfer of bonds, said notice shall contain a summary statement of the road or roads for whose construction they are to be transferred and applied, and the amount thereof to be transferred to each road. The opinion of the electors shall be expressed at any such election upon their ballots thus: "Abandon Road—Yes;" "Abandon Road—No;" and when the question of a transfer of bonds is submitted, "Transfer of Bonds—Yes;" "Transfer of Bonds—No;" the ballots to be cast separately when both questions are submitted at the same election, and to be counted and returned in all cases in the same manner as in other elections by the judges and clerks of elections. If two-thirds of the electors voting at any such election shall cast their ballots in favor of abandoning the construction of the road or roads stated in the notice as unnecessary, then all proceedings for the construction, sale or lease of the road or roads specified in said notice as unnecessary shall be abandoned; and if two-thirds of the electors voting at any said election shall cast their ballots in favor of transferring said bonds as stated in said notice, then such bonds shall be transferred and applied for the construction of the other road or roads stated in said notice, in the amount therein specified, and shall be lawful and binding to all intents and purposes; and the treasurer of state, upon receiving notice from the proper county commissioners, or city, village or township trustees, of such transfer, shall make the necessary entries and changes in his books and records, and such bonds shall be held and treated in all respects as if originally issued for the building of the road or roads for the construction of which they were so transferred; but if the transfer of such bonds shall not have been so voted, and only the abandonment of said unnecessary road or roads voted, then said bonds issued for said unnecessary roads shall be canceled, and shall be held null and void: Provided, that the foregoing proceedings for the abandonment of any road, or the transfer of bonds, shall not be had in case of any road for the construction of which contracts have theretofore been duly and lawfully made,

Notice of  
special elec-  
tion.

Contents of  
notice.

Proceedings  
following  
result of  
vote.

without the consent of the parties executing, or at the time holding such contracts, nor where any of the bonds for such road have been duly paid out by the treasurer of state, or have been lawfully earned by the contractors, without the consent of the parties holding or entitled to such bonds.

Excess of ap-  
propriation, how  
used.

SEC. 3. That where by mistake a larger amount has been or shall be appropriated for building any railroad than is authorized by the act to which this is supplementary, bonds may be issued and deposited with the treasurer of state for the true amount but no more, or if already issued, so much thereof as shall not exceed the amount authorized by said act may be used for the construction of railroads in accordance with the provisions of this act and the act to which this is supplementary: Provided, the excess thereof shall be delivered to the authority or authorities issuing the same, upon their written order, who shall, upon receiving the same, cancel and destroy all of said excess of bonds, of which fact they shall make a complete and detailed record in the record of proceedings, of such authority or authorities, and it shall be the duty of the treasurer of state, before delivering any of said excess of bonds, to indorse on each of them the words "Excessive bonds canceled," and also a statement of the person or persons to whom delivered, the date of delivery, and by what authority, and he shall keep a minute record thereof in his office; provided further, that if any bonds shall have been deposited in good faith with the treasurer of state which may not be by reason of errors or omissions, correspond in character with the bonds intended to be issued by the vote of any county, city, township or incorporated village under this act, or the act to which this is supplementary, the commissioners of such county, trustees of such township, or the trustees or council of such city or village may execute new bonds that shall conform with the provisions of this act, and the act to which this is supplementary, and deposit such bonds with the treasurer of state; and upon receipt of such new bonds said treasurer shall write or stamp the word "canceled" across the face of such original bond and every coupon thereto attached; and after such writing or stamping, such original bond and coupons shall be void, and such new bonds shall have the same force as if issued originally within the time fixed by the act to which this is supplementary.

Disposition  
of incorrect  
bonds.

When a new  
election au-  
thorized.

SEC. 4. That whenever the proposition to construct any railroad or railroads by any city, county, incorporated village or township, has heretofore been, or shall hereafter be, defeated at the election held therefor, or whenever any city, county, incorporated village or township shall have voted, according to the provisions of section two of this act, to abandon any road or roads deemed unnecessary, proceedings may be had and another election held for the construction of one or more railroads in the manner and subject to the provisions of this act, and the act to which this is supplementary, at any time, except that not more than one election shall be had upon substantially the same proposition in any one year, anything in the act aforesaid to the contrary notwithstanding; and wherever previous elections that shall have



made appropriations shall not have appropriated five per cent. of the amount of the tax duplicate, elections upon other propositions may be had to appropriate any sum or sums yet remaining unappropriated, but in the aggregate with former appropriations not to exceed the aforesaid five per cent.; and if at such other election or elections the proposition or propositions submitted are carried by a two-thirds vote, the same proceedings may follow as in other cases where elections have been successful: Provided, that it shall not be necessary to issue nor deliver to the state treasurer any bonds until within twenty days after the contract for construction has been duly executed.

SEC. 5. That in any case where from mistake, inadvertence or otherwise, any of the acts or proceedings for the issue of bonds, or advertising for or letting of a contract for the construction, sale or lease of any railroad under the act to which this act is supplementary, subsequent to the election held therefor, have not been done or had at the time or for the periods prescribed in said act, the same shall be done and had as soon as may be after the passage of this act; and such acts and proceedings, as well as those which have already been done and had in accordance with said act, although not at or within the precise times prescribed in said act, and all subsequent acts and proceedings, rights and privileges dependent thereon, are hereby declared and shall be held to be legal, valid and binding, and shall operate as if they had been performed at the times and for the periods prescribed in said act; and where, in the opinion of the officers charged with the performance thereof, any of the acts or proceedings aforesaid have been imperfectly performed, or have been omitted, and such officers shall deem it best to proceed anew therewith, in whole or in part, they may do so, assuming, in any case where it shall be necessary or convenient, the fifth Tuesday after the passage of this act, and when the act or proceeding has been delayed by judicial proceedings, then the thirtieth day after the ceasing of such order or proceedings, as the date for performing such act or commencing the same, or from which the period limited in said act for doing or commencing any such act or proceeding shall begin to run; and all the subsequent acts and proceedings shall thereafter be proceeded with accordingly in the manner and for the times and periods fixed therefor in said act; and all such acts and proceedings, and the rights, powers and privileges dependent thereon, shall be as legal, valid and binding as if the same had been done and had at the times and for the periods prescribed by said act: Provided, that whenever it has happened that by the vote had in any county or township, and in any city or village embraced within the territorial limits of such county or township, the aggregate amount appropriated by such county or township and city or village, together, exceed the amount authorized by said act, it shall be lawful for the proper officers of such county or township, and such city or village, to agree as to how much of such aggregate appropriation shall be used by each, and bonds therefor issued, in

Correction of errors from mistake, inadvertence, &c.

Proviso, as to excess of appropriation.

Amount of  
levy requir-  
ed to be cer-  
tified to  
county  
auditor.

—and shall  
be assessed,  
collected,  
&c.

Terms of pe-  
tition to be  
held as cor-  
rect, &c.

Meeting to  
be called by  
county com-  
missioners.

order to reduce such aggregate within the limits prescribed by said act, in such manner as said officers shall deem best.

SEC. 6. That the council of any city, and the trustees of any incorporated village or township, which has issued bonds under the provisions of this act, or of the act to which this is supplementary, for the construction of railroads, or shall hereafter issue such bonds, shall, each year, determine and certify to the auditor of the proper county, in the same manner and at the same time the other taxes of such city, village or township are determined and certified under the provisions of law, the amount necessary to be levied and raised upon the taxable property of such city, village or township, to pay such of their said bonds, or the interest thereon, or both, as shall become due and payable each year, so long as the same remain outstanding and unpaid, and until all of such bonds and the interest thereon have been fully paid; which amounts so certified shall be assessed, levied, collected and paid over, in the same manner that other taxes of such cities, villages and townships are, by law, for the payment of said bonds and interest, or shall be paid over by the proper county officers to such corporation, firm or persons holding such bonds, as may be ordered by the trustees of any such city, village or township. And the full faith and credit of every city, incorporated village or township so issuing such bonds, are hereby pledged for the full payment of both the principal and interest thereof, and the same are made a legal and valid charge upon the taxable property aforesaid.

SEC. 7. That in any case where a petition has been, or hereafter shall be made under the provisions of the act to which this is supplementary, or a notice given upon any such petition, asking or requiring a county, city, village or township election for a railroad from one boundary to another of such county or township, and indicating the proposed general course of such road through such county or township, the same shall be held to be a substantial description of such road and a sufficient compliance with the requirements of law respecting the designation of the termini thereof: Provided, that when an election has been held in any county or township on a proposed line of road, the termini of which have been named in the notice of such election at points beyond the limits of such county or township, the same is hereby declared and shall be held to be a compliance with the provisions of this act and the act to which this is supplementary.

SEC. 8. That the second, fifth, eighth and tenth sections of said act, entitled "An act to authorize counties, cities, incorporated villages and townships to build railroads, and to lease and operate the same," passed April 23d, A.D. 1872, (O. L., volume 69, pages 84 and 88,) be so amended as to read as follows:

Section 2. It shall be the duty of the commissioners of any county to call a meeting of the electors of such county, at their usual place of voting, whenever a written request to do so shall be made by one hundred tax-paying electors of

such county; and the said commissioners shall give thirty days' notice to the qualified electors thereof, by publication in a newspaper of general circulation in said county, requiring said electors to vote for or against the construction of the proposed road and of the time of said vote; and the opinion of said electors shall be expressed on their ballots, "Railroad—Yes," or "Railroad—No," which ballots shall be counted and returned by the judges and clerks of elections, as in other cases: Provided, that such request and notice shall specify the termini of the proposed road, the amount to be appropriated towards its construction, the conditions, rates of interest, time of payment and manner of executing the bonds, and other particulars in regard to such appropriation as they may deem proper not otherwise provided herein. Said commissioners, upon proper request as aforesaid, are hereby authorized and required to call a special election for the purpose aforesaid, by giving the notice required thereby; provided, that no county under the provisions of this act shall hold more than one special election in one year, except as provided in section four of this act, and all the elections in said section mentioned may be had notwithstanding this proviso. A copy of the request, and also of the notice required by the provisions of this section, shall be entered at large upon the records of such county, together with a statement of the result and other essential particulars, and a certified copy of such record shall be in all courts and places *prima facie* evidence of the facts therein set forth; and a certified copy of such record shall be furnished to the treasurer of state within a reasonable time after the demand by such treasurer, together with any contracts entered into for the construction of a railroad under the provisions of this act, and be by him placed on file in his office.

But one special election in a year, &c.

Section 5. Upon receipt of any such bonds from any county for the construction of any railroad, the treasurer of this state shall immediately register or record the same in a book or books to be kept by him for that purpose in his office, which records shall show the amount, date and number of each bond, the rate of interest which it bears, by what county issued, to construct what railroad the such bonds are issued, and the time when payable, which record shall be open for the inspection of any citizen of this state, or other interested parties. Such bonds shall be safely kept by said treasurer for the benefit of the parties interested, and be disposed of by him in the following manner, that is to say: Whenever the county commissioners shall present an order for said bonds, from the chief engineer, approved by the county commissioners, certifying that there had been expenses incurred for engineering, right of way, depot or other necessary grounds, or for labor performed and materials furnished during the previous month in pursuance of the contract to the amount therein specified, it shall then be the duty of the treasurer of state to deliver to the commissioners, or the person designated in their written order, bonds to an amount not exceeding eighty five per cent. of the said order. The

Record of bonds to be kept.

Duties of treasurer of state.

treasurer of state shall at all times retain fifteen per cent. of said orders until the final completion of the road, and the certificate of the chief engineer and commissioners is presented, certifying that fact. The treasurer shall indorse upon each of said bonds the date of such delivery, and to whom the same were delivered, and shall notify the auditor of the county issuing the same of the date of such delivery. And in case any bond so delivered to said treasurer by any county shall not, within three years from the time when the same was received by him, be demanded in compliance with the terms of this act, the same shall be canceled by said treasurer and returned to the auditor of the county issuing the same. All coupons over-due at the time of delivery of such bond or bonds by the treasurer of state, shall be by him cut off and canceled and returned to the authorities issuing such bond or bonds, unless said authorities shall otherwise direct in their written order.

Appropriation of land.

Section 8. Whenever, in the construction of a railway under the provisions of this act, as herein provided, it shall be necessary to appropriate land for the foundation of the abutments or piers of any bridge across any stream within this state, or for any other purpose, or to appropriate any rights or franchises, proceedings shall be commenced by said county commissioners, and conducted in accordance with the act entitled "An act prescribing the mode of assessment and collection of compensation to the owners of private property appropriated by and to the use of corporations," passed April 23, A. D. 1872, (69th volume D. L., page 88.)

Lease or sale of road by county commissioners.

Section 10. Said county commissioners shall have the power and are hereby authorized to lease said road or roads constructed under the provisions of this act, before or after its completion, for a term of years, with the full power to use and operate the same, to such person or company as will furnish security approved by said commissioners, or to sell the same for such compensation and upon such terms as may be agreed upon by said commissioners and lessee or purchaser: Provided, that it shall be the duty of said commissioners, before completing such contract of sale or lease, to give notice by publication in some newspaper of general circulation in such county for two successive weeks, of such proposed contract of sale or lease; and it shall be lawful for the same number of tax-paying electors as is required to authorize the submission to a vote of the electors of the proposition to construct a railroad or railroads as provided by this act, to file a petition within ten days after the said period of two weeks above named, with said commissioners, asking for the submission of the ratification of such contract of sale or lease to a vote of the electors of said county; and it shall be the duty of said commissioners, in case such petition shall be filed as aforesaid, to call an election for such purpose, giving thirty days' notice of the same, as required by the second section of this act; and the opinion of the electors voting at said election shall be expressed "Ratification—Yes," or "Ratification—No," which ballots shall be counted and returned by

the judges of election as in other cases; and if a majority of the electors voting at said election shall vote in favor of ratification, then the said contract shall be valid and binding; or if such petition shall not be filed as aforesaid, then said commissioners shall proceed to contract for the sale or lease of such road or roads, and the same shall be valid and binding.

SEC. 9. If any commissioner or auditor of a county, or trustee or clerk of any township, or any mayor, auditor, clerk or trustee of any city or incorporated village, or any treasurer or other officer, clerk or agent, shall, in connection with or in consideration of the performance of any duty or duties, act or acts, prescribed, enjoined or provided for by this act or the act to which this is supplementary, accept or receive, or agree to accept or receive, any bribe or valuable thing other than the compensation allowed by law, or shall in any manner, directly or indirectly, be interested in any contract of sale or lease, or in the construction of any railroad provided for by this act or the act to which this is supplementary, otherwise than as a citizen and a tax-payer; or if any person or persons shall give or offer, or propose or promise to any of the aforesaid commissioners, auditors, mayors, recorders, clerks, trustees, treasurers, agents or other officers, any bribe or valuable thing, other than their compensation allowed by law, in connection with or in consideration of or for the purpose of influencing any such officer or officers or agent in any matter or thing, duty or duties, act or acts, proceeding or proceedings, provided for, prescribed, enjoined or authorized by this act or the act to which this is supplementary; or if any of the officers, clerks or agents aforesaid, shall unlawfully and willfully misuse, misapply, destroy, convert to his or their own use, or direct from their lawful use, any moneys, bond or other valuable thing that may come to his or their possession, or over which he or they may have control, every such officer, agent or clerk or person, shall be deemed guilty of a crime, and upon conviction thereof shall be fined in any sum not exceeding five thousand dollars, or be imprisoned in the penitentiary at hard labor not less than one year nor more than five years, or both, at the discretion of the court, and pay the costs of prosecution, and shall moreover be liable in damages to any person or persons, party or parties injured, to be recovered by civil action in any court of competent jurisdiction.

Punishment  
for bribery,  
misapplica-  
tion of funds,  
&c.

SEC. 10. That said original sections two (2), five (5), eight (8) and ten (10) of said act of April 23d, 1872, hereinbefore amended, be and the same are hereby repealed; but any and all proceedings taken or rights acquired under the same, are hereby preserved and held valid.

Repeal.

SEC. 11. This act shall be in force from its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed March 31, 1873.

## AN ACT

To provide for the rebuilding of the Northern Ohio Lunatic Asylum.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the trustees of the Northern Ohio Lunatic Asylum shall, immediately after the passage of this act, proceed to contract for, according to law, and rebuild said asylum on the grounds belonging to the same, in such manner as shall best adapt the new structure to the wings of the old asylum now standing. Said building shall be made fire proof in all its parts, as near as practicable, and when finished, together with the portion of the old asylum now standing, shall be capable of accommodating not less than six hundred and fifty patients; the cost of the said new building, when completed, including the putting of permanent fire-proof roofs on the wings, shall not exceed the sum of five hundred and fifty thousand dollars, exclusive of the material saved from the burnt asylum proper to be used in the construction of the new building; and the fourth story of the administration building shall be furnished as a ward capable of accommodating at least fifty convalescent patients; and said amount shall cover the entire expenses and cost of said building, finished and completed, but not including the heating apparatus and furnishing the same: Provided, that the contract for building the same shall be so conditioned that it shall be so far completed by the first day of January, A. D. 1874, as to comfortably provide for at least two hundred patients, in addition to the present capacity of said asylum, and to be entirely finished by the first day of January, 1875.

SEC. 2. That said trustees shall also proceed to contract, according to law, for the erection of gas works on the grounds of the said asylum, of sufficient capacity to supply the same with gas, at a cost not exceeding ten thousand dollars, to be completed by the first day of January, A. D. 1874.

SEC. 3. This act shall be in force and take effect from and after its passage.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed March 18, 1873.

## AN ACT

Directing the mode of procuring the testimony of persons who are confined in prison.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That whenever it shall be deemed necessary,

on the trial of any criminal cause on indictment, or upon any hearing before the grand jury in any county in this state, to procure the testimony of any person confined in the penitentiary, or in any workhouse or prison in this state, it shall be lawful for the court or any judge in vacation in his or its discretion to order a subpoena issued by the clerk thereof and directed to the warden of the penitentiary, or the superintendent or keeper of the the workhouse or prison, as the case may be, commanding him to bring the witness named in said subpoena before the court.

Subpoena to issue to warden, &c., to produce witness.

SEC. 2. The warden, superintendent or keeper aforesaid, upon receiving said subpoena, shall take, or cause to be taken, said witness before the court at the time and place mentioned in the subpoena, and hold him until he is discharged by the court, and when so discharged he shall be returned, in the custody of the officer, to the place of imprisonment from whence he was taken; and such officer, warden, superintendent or keeper may command such assistance as he may deem proper for the safe transportation of such witness.

Warden, &c., to take witness before court, &c.

SEC. 3. While a witness is in attendance upon any court, in obedience to the subpoena mentioned in the first section of this act, he may be placed for safe keeping in the jail of the county to which he has been brought.

Witness may be placed in jail for safe keeping.

SEC. 4. The expenses incurred by said warden, superintendent or keeper, in transporting said witness to and from the court to which he is summoned, shall be allowed by the court, and taxed and paid the same as other costs against the state.

Expenses.

SEC. 5. This act shall be in force from its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed March 28, 1873.

## AN ACT

To amend sections two, three, thirteen, fourteen and twenty-two of an act relating to ditches, passed April 12th, 1871. (O. L., volume 68, page 60.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That sections two, three, thirteen, fourteen and twenty-two of the above entitled act be so amended as to read as follows:

Section 2. That before the commissioners shall establish any ditch, there shall be filed with the auditor of such county a petition, signed by one or more of the land owners whose land will be assessed for expenses of the same, setting forth the necessity thereof, with a general description of the proposed starting point, route and terminus, and shall file a bond, with good and sufficient securities to the acceptance of the

Preliminary proceedings in locating ditches, &c.

auditor, conditioned to pay all expenses in case the commissioners shall fail to establish said proposed ditch; and it shall be the duty of the auditor to furnish a copy of said petition to the commissioners, who shall thereupon direct the county surveyor or a competent engineer to go upon the line of the proposed ditch, to view and make a computation of the number of cubic yards of earth to be removed from each section, with an estimate of the costs of construction of the work apportioned to each parcel of land, and specify the manner in which the work shall be done, the necessary flood-gates, water-ways, bridges and farm crossings to be made, with such other suggestions as he may deem material, and file his report with the auditor, and the commissioners shall fix a day for the hearing thereof. It shall be the duty of the auditor, on said report being filed and the day fixed by the commissioners for the hearing thereof, to cause notice to be given, by publication for four consecutive weeks in some newspaper published of general circulation in said county, of the pendency and prayer of said petition and the time set for hearing thereof, which notice shall contain a pertinent description of the termini of such proposed ditch, its direction or course from its source to its outlet, and the sections or tracts of land through which it shall be proposed by the commissioners to establish the same; and immediately transmit a brief written notice to non-residents interested, whose postoffice address is known to the county auditor, or can be ascertained by inquiry at the treasurer's office.

Damages for  
land appro-  
priated.

Section 3. Any person claiming compensation for lands or damages by the construction of such proposed ditch, if the same should be established in accordance with the report of said surveyor, shall make application in writing therefor, and file the same with the auditor, on or before the day set for the hearing of the petition; and on failure to make such application, shall be deemed to have waived all rights to such compensation or damage.

Proceedings  
in determin-  
ing damages.

Section 13. If the appeal is taken on account of damages or compensation allowed by the commissioners, such proceedings shall be had to determine the amount, as are required by the act entitled "An act to provide for compensation and damages to owners of private property appropriated to the use of corporations," passed April 30, 1852; and the compensation or damages found in favor of said claimant shall be certified by said probate judge to the county auditor, and paid out of the county treasury from the general fund. If no damages or compensation shall have been claimed, or if no appeal shall have been taken from the report of the surveyor, and said petitioners shall not have discontinued proceedings as above provided, or if the damages and compensation shall have been paid out of the county treasury, the said commissioners shall proceed to make a just and fair estimate of the average cash value of the construction per linear rod, cubic yard or foot of earth, and every section or allotment of such ditch, and apportion the costs of the location thereof, including printer's fees, the damages and compensation, (if any shall have been assessed), and costs in probate court, if

Apportion-  
ment of labor  
and ex-  
penses.

*Amended*

*Nov. 1852*



adjudged against the commissioners, and the labor of constructing said ditch, and award to each person or persons owning lands through, or in the vicinity of which said proposed ditch may be established, as shall be deemed just and right, according to the benefits to be derived by constructing the same, and shall specify the time in which said costs and expenses shall be paid to the county treasurer, and the time and manner in which such labor shall be performed, and appoint a day on which they will meet to hear exceptions to such apportionment; and they shall cause a stake or monument to be placed at the boundaries of each of the several portions, which shall be numbered progressively down stream, at each one hundred feet. And said auditor shall give notice, in tabular form, of the apportionment, containing: First—the name of the owner as it appears on the tax duplicate at the date of said notice. Second—description of each parcel of land assessed for the construction of such ditch. Third—number of rods or feet apportioned to each of said parcels of land. Fourth—the estimated value per rod, cubic yard or foot of construction. Fifth—the expenses, including damages and compensation, if any shall have been awarded. And said notice shall state the time as fixed by the commissioners, when the costs and expenses shall be paid and the work completed, and also the day when and where the commissioners will meet to hear exceptions to such apportionment. Said notice shall be published for four consecutive weeks in some newspaper published or of general circulation in said county, at the rate now authorized by law for publishing delinquent tax sales, and no more. On the day named in such notice the commissioners shall meet, and if no exceptions have been filed to said apportionment, they shall confirm the same; but if exceptions in writing have been filed, they shall hear such exceptions, and any testimony offered by any party who has filed exceptions, and either one of said commissioners shall be authorized to administer oaths to witnesses. On said hearing they may confirm said apportionment or change the same, and may make an actual and careful view of the route of said ditch or any part thereof, and the lands to be affected thereby; but in no case shall they hear exceptions to, or review any question with reference to damages or compensation, except as to the apportionment of such damages or compensation as above provided. In making the apportionment specified in this section, the commissioners shall assess separately, according to their respective value the particular estate which any person interested in the construction of the ditch may have in the land affected thereby, so that estates for life, for term of years, or in remainder, shall each pay its just proportion of the assessment. And all estimates shall be made by actual and not apparent quantities or distance.

Section 14. If any of the persons interested in the opening of said ditch shall fail to procure the excavation thereof, or that portion set off to them, respectively, by the commissioners,

Notice of ap-  
portion-  
ment, &c

Proceedings  
in case of  
failure of  
parties to  
excavate the  
portion set  
off to them.

in the manner and time specified, it shall be the duty of said commissioners to let said work at public sale, and take a bond, payable to the state of Ohio, of the person or persons to whom said work is let, with good and sufficient sureties for the faithful performance of the same within a specified time; and on completion of the work thus let, and acceptance by said commissioners, the auditor shall issue a certificate to the persons doing said work, for the sum due them, and shall enter the amount of said certificate upon the duplicate of the county against the tract or lot benefited by the opening of that portion of said ditch, together with legal interest, and the amount so entered shall be collected by the treasurer of the county as other taxes, and paid by him to the person holding said certificate: Provided, however, that in no case shall said work be sold or let by the said auditor at a greater price than twenty per cent. above the estimated value fixed by said surveyor, as hereinbefore provided; and, provided further, that no person having an official duty to perform about said ditch, shall be interested directly or indirectly in any contract for the construction of such ditch. Any contract in which any of the said officers shall be interested, shall be deemed fraudulent and void. All the expenses attending the letting of said work, except as hereinafter provided, shall be assessed against the land to which said work was apportioned, and collected as taxes by the treasurer, and paid to the persons to whom the same was due.

As to cases of  
ditches in  
more than  
one county.

Section 22. In all cases where any proposed ditch shall be in more than one county, application shall be made to the commissioners of each of said counties, and the county surveyor or engineer must make a report for each county, and application for damages must be made in the county where the land is situated, and a majority of the commissioners in each county, when in joint session, shall be competent to locate and establish the ditch: Provided, that no commissioner shall serve in any case where he is personally interested. Any two commissioners may form a quorum for the transaction of business under this act in their respective counties.

SEC. 2. That original sections two, three, thirteen, fourteen and twenty-two of the act to which this is an amendment, be and the same are hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed March 28, 1873.

## AN ACT

To amend section 562 of an act to provide for the organization and government of municipal corporations, passed May 7, 1869, and as amended and took effect April 18th, 1870.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section (562) of the above named act be amended so as to read as follows:

Section 562. When the corporation shall make any improvement or repair provided for in this chapter, and in chapters forty-nine and fifty, the cost of which will exceed five hundred dollars, it shall proceed as follows:

Proceedings  
in making  
improvements or repairs.

First—It shall advertise for bids for the period of two weeks in some newspaper published or of general circulation in said corporation, and two if there are so many, and if no newspaper is published therein, then by posting up such advertisement in three public places therein, and if the estimated cost exceeds five thousand dollars, then four weeks.

Second—The bids shall be filed with the clerk, or with the board of improvements, where such board exists, sealed up, by twelve o'clock at noon, on the last day, as stated in the advertisement.

Third—The bids shall be opened at the next regular meeting of the council or board of improvements, as the case may be, and publicly read by the clerk, and filed.

Fourth—Each bid shall contain the full name of every person interested in the same, and shall be accompanied by a sufficient guaranty of some disinterested person, that if the bid is accepted a contract will be entered into, and the performance of it properly secured.

Fifth—If the work bid for embraces both labor and materials, each shall be separately stated, with the price thereof.

Sixth—None but the lowest responsible bid shall be accepted, when such bids are for the labor or materials separately; but the council may, at its discretion, reject all the bids, or it may at its discretion accept any bid for both labor and material, which shall be the lowest aggregate cost of such improvement or repairs.

Seventh—The contract shall be between the corporation and the bidder, and the corporation shall pay the contract price for the work in cash; provided, however, that the contract price may be paid in assessments, as the council in its discretion may have previously determined.

Eighth—If two or more bids are equal in the whole or any part thereof, and are lower than any others, either may be accepted, but in no case shall the work be divided between them.

Ninth—When there is reason to believe there is any collusion or combination among the bidders, or any number of them, the bids of those concerned therein shall be rejected.

SEC. 2. That section 562, as amended April 18, 1870, be and the same is hereby repealed.

SEC. 3. This act shall take effect from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed March 29, 1873.

## AN ACT

Supplementary to an act entitled "An act authorizing the appointment of Metropolitan Police Commissioners in cities of the first class with a population of less than one hundred thousand inhabitants at the last federal census," passed April 5, 1866, as amended and supplemented April 7, 1868, and March 11, 1872, and to repeal an act therein named.

Extension of  
 provisions  
 to certain  
 cities.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the provisions of an act entitled "an act authorizing the appointment of metropolitan police commissioners in cities of the first class with a population less than one hundred thousand inhabitants at the last federal census," passed April 5, 1866, as amended and supplemented April 2, 1868, and March 11, 1872, be and they are hereby extended, so far as the same are applicable, to cities of the second class having a population of more than thirty thousand and less than thirty-five thousand inhabitants at the last federal census: Provided, that the first board of commissioners in said cities of the second class, shall be appointed by the governor, and shall hold their office for one, two, three and four years, respectively, from the first Monday of April, 1873, and until their successors are elected and qualified, as provided in said act. The respective terms of office of said commissioners, appointed as above provided, to be, by them, determined by lot.

First board  
 of commis-  
 sioners to be  
 appointed by  
 governor.

Act repealed.

SEC. 2. That an act entitled "An act to amend section one of an act entitled an act to repeal an act entitled an act supplementary to an act entitled an act authorizing the appointment of metropolitan police commissioners in cities of the first class with a population of less than one hundred thousand inhabitants at the last federal census, passed April 5, 1866, passed March 29, 1867, and to provide a police for cities of the second class, passed April 16, 1868," passed May 6, 1869, be and the same is hereby repealed; and the cities therein mentioned, except as herein provided, shall organize their police under the general laws applicable to that subject: Provided, that the officers of police and the regular police now in office, in cities acting under the above recited act,

passed May 6, 1869, shall continue in office until their successors are appointed and qualified.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed March 29, 1873.

## AN ACT

Further supplementary to the act entitled "An act defining the jurisdiction and regulating the practice of Probate Courts," passed March 14, 1853, and the act supplementary thereto, and to amend said act, passed May 1, 1854. (S. & C., 1218.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the probate judges of the several counties in this state, for completing any business commenced and left unfinished during the terms of their respective predecessors in office, shall be entitled to charge and receive the fees prescribed by law; and that in all cases where any probate judge has heretofore completed or may hereafter complete such unfinished business, and any predecessor in office has received the fees therefor, or any part thereof, he may obtain the amount of the fees therefor, paid to such predecessor, from the county treasury, in the mode provided by the act entitled "An act supplementary to the act entitled 'an act defining the jurisdiction and regulating the practice of probate courts, passed March 14, 1853, and the act supplementary thereto, and to amend said act,'" passed May 1, 1864, (1854,) passed March 4, 1865, (62 volume, 33); and that when any moneys shall have been paid out of the county treasury to any person, under this act, it shall be the duty of the prosecuting attorney of the proper county to collect the same by suit on the official bond of the probate judge who shall have originally received such fees as aforesaid, and pay the same into said treasury.

Fees of probate judges for certain services.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed March 29, 1873.

## AN ACT

To establish a Board of Police Commissioners in certain cities of the first class.

Board of police commissioners in certain cities.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That in all cities of the first class having at the last federal census a population of two hundred thousand and over, the police powers and duties shall be vested in and exercised by a board to be known and hereby established as the "Board of Police commissioners."

Council to divide cities into districts.

SEC. 2. Within one week after the passage hereof, the council or common council of such city shall, by joint resolution, divide said city into four districts, to be designated and known as the police districts Nos. one, two, three and four. Each of said police districts shall be composed of contiguous wards, and they shall be as nearly uniform in population and shape as possible; the disparity in population between any two of said districts, shall not exceed one thousand. The council or common council failing to so divide such city within the time above specified, the superior court of such city shall immediately proceed to do so in the manner above designated.

Composition of board of police commissioners.

SEC. 3. Said board of police commissioners shall be composed of the mayor of said city, who shall be a member and ex officio president, and four commissioners, to be elected by the qualified electors of such city, in the following manner, viz: At the first regular annual municipal election held in such city after the passage hereof, and after five days notice thereof by proclamation of the mayor of such city, the qualified electors of each police district, established as hereinbefore provided, shall elect one police commissioner; one to serve for one year, one for two years, one for three years, and one for four years; their respective terms to be designated by lot. At every subsequent regular annual municipal election, one police commissioner shall be elected for the term of four years, by the qualified electors of that police district in which a regular vacancy occurs.

Filling of vacancies.

SEC. 4. Vacancies occurring by any cause in said board, except in case of death, resignation, or removal of the mayor, shall be filled by election by the common council of such city, which person or persons so elected shall hold the office only until a successor or successors shall be elected and qualified at the next regular annual municipal election, to serve during the residue of the unexpired term. Said commissioners shall serve without compensation. Said police commissioners shall each be citizens of the United States, and five years, at least, resident citizens of the city in which they shall be elected.

Organization of board.

SEC. 5. Within two weeks after the election of such police commissioners in any city authorized by this act, the said commissioners, together with the mayor, shall organize as the board of police commissioners of such city, by each commis-

Rep & Sup

72-5

sionertaking and subscribing an oath, to be administered by the mayor of such city, a copy of which shall be filed in the city clerk's office, to well and faithfully discharge the duties of his office, and by electing a clerk, who shall act as treasurer also of said board, and shall give bond in the sum of ten thousand dollars to the city, with sureties to the satisfaction of the mayor of such city, for the faithful discharge of his duties, a copy of which shall be filed in the city clerk's office. Such clerk shall receive such compensation as said board may recommend, and the common council of such city may allow.

SEC. 6. Immediately upon such organization of said board of police commissioners, said board shall assume and exercise the entire control of the police force of such city, and shall possess full power and authority over the police organization, government and discipline within such city, and shall have the same powers, rights and duties in reference to the appointment, election, confirmation or removal from the [and] discipline of the police force, and the possession and control of all property, books, records and equipments belonging to or under the control of the police authorities, and the general government of the police department in all particulars in such city, as are now by law vested in, possessed or exercised by the mayor, common council and board of health, except as herein otherwise provided. A majority of said board shall be a quorum for the transaction of any business.

SEC. 7. It shall be the duty of said board of police commissioners to enact, modify, repeal and publish from time to time, orders, rules and regulations of general discipline and duties of the police force, but in conformity with the provisions of this act. It shall be the duty of said board to meet and transact any business coming before it at least once each week. Any member of said board of police commissioners shall be removable for cause shown, the council of such city prosecuting, and the board of alderman trying such offending commissioner. Said board of police commissioners shall upon the passage of an ordinance or resolution, and the making of an appropriation therefor, and in conformity with such resolution or ordinance by the common council of such city, employ and equip mounted policemen in such number and such districts within the corporate limits of such city as shall be prescribed by said common council.

SEC. 8. The police force of any city organized under this act shall be appointed by said board of police commissioners, and be composed of a superintendent of police, so many captains of police, not to exceed twelve (12), so many other officers, not to exceed twenty, and so many watchmen or patrolmen, not to exceed three hundred, as may be asked by said board of police commissioners, and be approved of and prescribed by ordinance of the common council of such city. The officers and members of such police force shall receive such compensation as shall be fixed by the board of police commissioners, and approved of by the common council of such city: Provided, that the superintendent of police shall not receive a salary exceeding \$2,500; captains,

Powers,  
rights and  
duties of  
board.

Further du-  
ties.

Removable  
for cause.

Appoint-  
ment of po-  
lice force.

Compensa-  
tion of force.

Policemen  
must be citi-  
zens; term of  
office, &c.

\$1,200; other officers, \$1,000, and patrolmen, \$900 per annum. Until the board of police commissioners hereby created has been fully organized, and has made formal demand on the mayor of such city for the control of the police force and property of such city, the police force now and until then existing by law in such city, shall continue to discharge the duties by law imposed on them. Each member and officer of the police force shall be a citizen of the United States, and at least three years a resident citizen of the city in which he shall be appointed, and able to read and write the English language. Appointments on the police force by the board of police commissioners created by this act, shall be for during good behavior, and physical and mental ability to discharge the duties attached to such appointment; and no member of said regular police force, except the superintendent, shall be removable until written charges shall have been preferred against him, and after the charges shall have been examined into, after such kind of notice to the person charged, in such manner of examination as the rules and regulations of the board of police commissioners may prescribe. But any member or officer of the police may be suspended, for not more than one week, by the superintendent of police, who shall report such suspension, with the cause thereof, to the board at its next regular meeting. The superintendent of such police force, and the treasurer of such board, and any special private policeman may be appointed and removed at pleasure by said board of police commissioners. Said board of police commissioners shall have discretionary power to detail members of the regular police force to act as secret detectives, and have absolute and entire control of said secret detectives.

Bond of  
superinten-  
dent.

SEC. 9. The said superintendent of police shall give bond for the faithful discharge of his duties, in the sum of twenty thousand dollars, with sureties to the satisfaction of the mayor and city solicitor of such city, which shall be filed in the city clerk's office; and thereafter, under the direction and control of the board of police commissioners, shall have absolute command and control of the police force of such city.

Location of  
office: Cu-  
ties, &c.

SEC. 10. The principal office of said board, as also of the superintendent of police, shall be in rooms in the city buildings of such city, which it shall be the duty of the common council of such city to provide and furnish. Such police force so organized, shall possess and exercise all the powers and rights, and discharge all the duties now possessed, exercised or discharged by the regular or sanitary police force of such city, but under the provisions of this act and the rules and regulations of said board of police commissioners. Each officer and member of the police force, before entering upon the discharge of his duties, shall take and subscribe an oath, before one of said police commissioners, to well and faithfully discharge the duties of his office, which shall be filed away by the clerk of said board; and each captain and other subordinate officer of such police force, shall give a penal bond in the sum of five thousand dollars, and each patrolman shall also give penal bond, in the sum of one thousand dollars, with sureties to

Oath of  
office.

Bond.



the satisfaction of the board of police commissioners, conditioned for the faithful discharge of his duties, and for the payment of any damages that may be adjudged against him by any competent tribunal, for the illegal arrest or imprisonment, or injury by him of any person for the benefit of such illegally arrested, imprisoned or injured person. No member of the police board or force, under penalty of removal from office, shall receive or share in for his own benefit, under any pretense whatever, any present, fee, gift or emolument for police services, other than the regular salary and pay, except by the unanimous consent of the board, publicly given.

No fees, gifts,  
&c., allowed.

SEC. 11. Every member of said police force while on duty shall wear a uniform to be prescribed by the board of police commissioners, and shall at all times, in public, within the corporate limits of such city, wear on the outside of the lapel of his coat an ensignia of his office to be furnished by said board; any member failing to comply with either of these provisions shall be summarily discharged by the board of police commissioners. No member of the police force, shall be a delegate to or otherwise take part in any primary or other political convention or election, except to cast his vote; or hold or distribute ballots on election day, or in any way seek to influence any elector's vote, nor shall any member of said police board or force receive any appointment to or nomination for any public office of honor, trust or emolument, without, over his own name, in the public press, within five days after such appointment or nomination, declining and refusing the same. Any member of the board of police commissioners violating either of these provisions shall be summarily removed from office by the common council of such city, and the vacancy filled by said common council as hereinbefore provided, and any member or officer of the police force violating any of these provisions shall be summarily dismissed by the board with forfeiture of back pay. No one holding any public office of honor, trust or emolument shall be eligible as a candidate for or a member of the board of police commissioners or a member of the police force, and no member of said board or force shall be eligible to any elective office of honor, trust or emolument during or within three months next succeeding his connection with said board or force; provided, these restrictions shall not apply to the mayor. Vacancies occurring in any grade of said police force, except that of superintendent, shall be filled by the board from the next lowest grade. It shall be the duty of the superintendent of police to detail two patrolmen to attend and preserve order at each election poll in every primary or other election.

Uniform of  
police force.

No part in  
conventions,  
elections,  
&c.

Penalty for  
violation.

Ineligibility  
of office  
holders.

SEC. 12. The board of police commissioners shall at all times cause to be enforced all ordinances of the common council not inconsistent herewith, and all laws of the state or United States properly enforceable by a police force; and it shall be the duty of said board at all times, unless clearly inconsistent with the best interests of said city, to furnish all information asked for and to comply with all the requests

Further  
duties of po-  
lice commis-  
sioners.

Powers of  
mayor.

—of police  
commission-  
ers.

made by the common council of such city. The mayor is hereby vested with all the power now conferred upon the mayor of such city, in respect to ordering military assistance to aid the civil authorities to quell riots, suppress insurrections, protect property and in general to preserve the public peace. The said police commissioners, or either of them, shall have power to summon and compel the attendance of witnesses before them whenever deemed necessary, for the proper discharge of their duties, and also to administer oaths or affirmations on the premises, to any person appearing or called before them; and any one swearing falsely in any proceeding before them shall be punishable as for the same offense in any court of record. No member of the police force shall, under penalty of forfeiting his back pay, withdraw or resign without having given to the superintendent one month's notice thereof; and no person once removed for cause shall ever be re-appointed to any position or office in said police force, unless by the unanimous vote of the commissioners.

property,  
&c.

SEC. 13. All stolen property, or property found, taken by members of the police, shall be kept in the office of superintendent of police. Every such article shall be entered in a book kept for the purpose, together with the name of the owner, if ascertained, the name of place where found, when and from whom taken, with general circumstances and name of officer recovering the same and receipt of the person claiming the same. The police board shall also keep a complaint book, in which shall be entered every complaint against any member of the police preferred upon personal knowledge of circumstances thereof with name and residence of complainant; also a book for the registry of lost, stolen or missing property, for general convenience of the public and police force of the city; also books of record, wherein shall be entered the name of each member of the police force, with time and place of nativity, time and place he became a citizen, if born out of the United States, age, former occupation, number of family and residence thereof, date of appointment or dismissal from office, with cause of latter; and in a blank left shall be entered all arrests made by such member or any special service deemed meritorious by the superintendent of police. There shall be kept in proper books the account of the treasurer of the board and the minutes of all meetings held and the proceedings thereat; and all receipts for moneys and warrants, or checks for money, shall be written in books kept for the purpose and signed by persons receiving money, warrants, checks, &c., from the said treasurer. All such books shall be at all business hours, and when not in use, free to the inspection of the public. The police board shall also cause to be kept and bound all annual police returns, which returns shall contain all statistical information connected with the police government of the city during the preceding year.

Records to be  
kept.

Station  
houses to be  
provided.

SEC. 14. It shall be the duty of the common council of such city, in accordance with the laws and ordinances now existing therein, to provide all station houses as requested by

police board for the accommodation of the police force, for the lodging of vagrants and disorderly persons, and for the temporary detention of persons arrested for offenses, and to suitably furnish and light the same, the expense of which shall be paid from the police fund.

SEC. 15. In every case of arrest, the same shall be made known, within six hours thereafter, to the captain on duty in the precinct wherein the arrest was made by the person making the same; and it shall be the duty of the said captain forthwith after receiving such notice, to make duplicate written return thereof, one to said board, according to the rules and regulations of the police board, and one to the police judge of said city, together with the name of the party arrested, offense, place of arrest, and place of detention.

Arrests to be reported.

*50*

SEC. 16. The compensation of members of the police force shall be payable monthly; and it is hereby made the duty of the common council of such city to make the necessary appropriations out of the proper city funds for such monthly payments. The clerk of the police board shall each month draw his warrant, attested by the president, in favor of each member of the police force for the amount of salary due him for the current month, which shall be presented to the city auditor, who shall thereupon draw his warrant therefor upon the city treasurer, payable to such member, and such treasurer shall pay the same.

Payment of compensation.

SEC. 17. It shall be the duty of the police board to make a monthly report, in writing, to the auditor of such city, attested by the president and clerk thereof, of the expense incurred by the board for the current month other than the salaries of the officers and members of the police force, such as advertising, printing, stationery, postage, telegrams, fuel and lights; and such auditor shall thereupon promptly certify such report to the treasurer of the city, if found correct, who shall promptly pay the amount thereof to the clerk of the police board, taking his voucher therefor. No expense other than the above, and the salaries and payment herein mentioned, shall ever be incurred by said police board, unless expressly authorized and provided for by the common council of such city.

Monthly report to be made.

SEC. 18. The fund required for the payment of the clerk, officers and policemen herein named, and for all the other expenses that may be incurred in carrying out the provisions of this act, shall be annually estimated by the board of police commissioners, and reported to the auditor of such city on or before the first Monday in May in each year, who shall record and file the same and submit it to the committee on finance of the common council of such city, together with an ordinance levying a tax therefor for the year commencing March the first thereafter.

Fund required to be estimated and reported.

SEC. 19. And such common council is hereby required to levy and cause to be collected such tax, or such part thereof as they shall deem necessary, in the same manner as other taxes are now or may hereafter be levied and collected in such city, and from the date when this act takes effect, until

Levy of tax therefor.

such tax shall be collected, the officers and policemen herein named, and all other necessary expenses in any way arising in the full carrying out of this act, shall be paid out of the fund that would be used in such city for police purposes had not this act been passed; and if such fund is insufficient, it is hereby made the duty of said common council to provide any required balance for such expenses out of any funds of such city not otherwise appropriated.

Police life  
and health  
insurance  
fund.

SEC. 20. All rewards, fees, proceeds of gifts, and emoluments, that may be allowed by the board of police to be paid and given for or on account of extraordinary services of any member of the police force, and all moneys arising from the sale of unclaimed goods, shall be paid into the city treasury and shall constitute a fund to be called the "Police Life and Health Insurance Fund," and the said board of police commissioners are made hereby trustees of such fund and may invest the same as they may see fit. Whenever any member of the police force in actual performance of his duty, and in consequence of the performance of such duty, shall become bodily disabled, his necessary expenses during the time of his disability as aforesaid continues may become a charge upon the fund provided for in the preceding section, at the discretion of said board of police. The board shall inquire into the circumstances, and if satisfied the charge upon said fund is correct, may order the same to be paid; but the provisions of this section shall not apply to special patrolmen appointed at the request and expense of private parties.

Repeal.

SEC. 21. All laws and parts of laws inconsistent herewith, are declared hereby inoperative in cities organized under this act, and all city ordinances in such cities in conflict herewith are hereby repealed from and after the organization of the board of police commissioners herein created.

SEC. 22. This act shall take effect from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed March 29, 1873.

## AN ACT

To change the time fixed for holding the second or spring term of the court of Common Pleas in the county of Lorain, for the year 1873.

Time of hold-  
ing spring  
term in Lo-  
rain county.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the time fixed by the judges of the fourth judicial district of the state of Ohio for holding the second or spring term of the court of common pleas, in the county of Lorain, for 1873, be so changed that said term shall be

held in said county of Lorain on Monday the 28th day of April, A. D. 1873.

SEC. 2. This act shall take effect on its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed March 31, 1873.

## AN ACT

To amend an act entitled "An act for the relief of the families of Soldiers and Marines in the State and United States service, and of those who have died or been disabled in such service," passed April 6th, 1865.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section five of the above recited act be so amended as to read as follows:

Section 5. That the commissioners of the several counties, respectively, shall take control of the funds of their respective counties, for the purposes named in this act, when paid into the county treasuries, and shall apportion the same to the several townships and wards in their respective counties, according to the necessities of the families aforesaid, as returned by the trustees of the several townships, wards and election districts, as provided for in section two; which shall, on the warrant of the county auditor, be paid to the several township treasurers, and in cities of the first class to the treasurers thereof, and shall be drawn out upon the order of the said trustees of the several townships, wards and election districts, and be distributed by them for the relief of the necessities of the families of non-commissioned officers, musicians and privates in the service aforesaid, in money, as their necessities may require, under such rules and regulations as said commissioners may prescribe; but if it appears to the said trustees that any family is making improper use of the money, it is hereby made their duty to provide otherwise for the necessities of said families. Said trustees shall afford the relief contemplated by this act to the family of any soldier or marine heretofore or hereafter deceased or disabled in the service aforesaid. No money raised by the state levy, authorized by this act, shall be used by the said commissioners or trustees, otherwise than to meet the future necessities of said families: Provided, that this act shall not be so construed as to exclude from its benefits the families of colored soldiers or marines actually in the service of the United States, or who have died or been disabled therein; provided, further, that the benefits of this act shall be extended by the trustees and commissioners aforesaid, to the necessitous families, at the time residing in the township, ward, or election district, of all soldiers or marines in the service of this state

County commissioners to take control of funds, &c.

Families of deceased and or disabled soldiers.

Families of colored soldiers.

Governor  
may appoint  
commission-  
ers, &c.

Relief of in-  
digent and  
dependent  
soldiers.

or the United States, and who were residents of this state at the time of their enlistment, without regard to the locality from where such soldier entered the service, or to which he may be credited; provided, further, that the governor may, in his discretion, where he is satisfied that the objects to be secured by this act may be more fully attained thereby, appoint two or more persons in any county containing a city of the first class having a population of one hundred and fifty thousand inhabitants, as "commissioners of the soldiers' relief fund," who shall take an oath and give bond in like manner as the commissioners of counties are required to do by law, and who shall be clothed with all the powers under this act given to county commissioners, township and ward trustees, respectively; and in said counties the funds levied and collected for the purposes named in this act shall, on the order of the county auditor, be paid to said commissioners of the "soldiers' relief fund," or to any one of them, in pursuance of rules and regulations prescribed by said commissioners of the "soldiers' relief fund," for distribution under the provisions of this act; provided, further, that in any county or counties where there are commissioners of the "soldiers' relief fund," who have been heretofore appointed by the governor under the act to which this is an amendment, and who are acting under said appointment, said commissioners so appointed, shall have and exercise all the powers conferred by this act; provided, however, that such reasonable proportion of said fund shall be appropriated and applied under the restrictions and limitations aforesaid, to the relief of indigent and dependent soldiers and marines within the several counties, who, by reason of disease contracted, or wounds received in said service, are unable to support themselves.

SEC. 2. That said original section five, as passed April 6th, 1865, be and the same is hereby repealed.

SEC. 3. This act shall be in force from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed April 2, 1873.

## AN ACT

To amend sections two, three and six of an act entitled "An act to provide for the keeping in repair of Gravel and Macadamized roads heretofore or hereafter constructed under the laws of the state of Ohio, and to authorize county commissioners to convert such of said roads as charge and receive toll, into free roads," passed May 7, 1869, (vol 66, O. L., page 131,) and to repeal sections two, three, four, five, six, seven, eight, nine, ten and thirteen of said act.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That sections two, three and six of the above recited act be so amended as to read as follows:

Section 2. When any public road shall have been improved and accepted as an improved road by the commissioners of any county in this state, under an act passed March 29th, 1867, to authorize county commissioners to construct roads on a petition of resident land owners along and adjacent to the line of said roads, and the several acts amendatory of and supplementary to said act, or when any abandoned toll or free turnpike road shall have been received and appropriated by the commissioners and declared public roads, or when any toll road shall be made free under the laws of this state, the auditor shall immediately give notice of such fact, to the township clerk wherein any such road or part thereof may be located, describing it by name and location; or when any transaction, as provided for in this section, shall have been accomplished before the passage of this act, then on the going into effect of this act such notice shall be given, except where any free road shall be made a toll road, as provided for in the sixteenth section of this act.

County auditor to give notice in certain cases.

Section 3. The township clerk, upon receiving notice from the auditor, shall immediately notify the township trustees of such fact, who shall, upon receiving such notice, have full charge and control of all such roads as are herein provided for within their township; and it shall be the duty of such trustees to divide such road or roads into sections of not less than one-half mile each, and shall keep them in good repair, in good condition, for all kinds of public travel, and for that purpose they are hereby invested with all necessary powers as to drainage and the procuring and removing of material required for repairs on such roads, as are now or may be conferred by law upon supervisors of roads and highways. All repairs shall be done under contract, such contracts shall be let to the lowest responsible bidder, and before letting any such contract the trustees shall advertise for bids at least twenty days by publication in some newspaper of general circulation in such township, or by posting printed or written notices thereof in at least five of the most public places in the township, and all payments for gravel or stone shall be

Duty of township clerk, and trustees.

Bonds re-  
quired.

Further  
duty of trus-  
tees.

The same.

by the actual cubic yard, placed upon the road; and repairs of the roadbed and contents, shall be made under contracts made in accordance with plans and specifications to be provided by said trustees. And the trustees may require any person or persons bidding for any contract to give bond for the faithful performance of such contract, in such sum as said trustees may require, and with sureties, to be approved by them. All work done under any such contract must be accepted by the trustees before any payment shall be made thereon. All work herein authorized shall be completed on or before the first day of November of each year: Provided, that the trustees may, in their discretion, at their regular March session, annually apportion and assign to the several supervisors of roads and highways in their townships, such road or roads or any part or parts thereof in the road districts of such supervisors respectively, to be by them kept in repair as required in this act, and under the control and supervision of said trustees. And said trustees shall transmit to the commissioners of the county, prior to their regular quarterly meeting, on the first Monday of June in each year, a statement showing the number of miles of free gravel roads in their township, the amount of levy made for road purposes, and the pro rata of the same set apart for keeping in repair said improved and free gravel roads, and expended on the same, and the conditions in which such roads are for public travel.

Section 6. The township trustees shall provide means for keeping in repair all such improved roads within their township, and for that purpose shall set off persons and districts, who shall perform their two days' labor as required by law, and also labor in commutation of taxes, the same to be worked out under the direction of the trustees or supervisors, as provided by this act, who are hereby authorized to give receipts therefor as other road supervisors; and they shall set off from the common road fund of their township, such amount as to them shall seem equitable, to be an improved road fund especially applicable to the care and improvement of such roads, and may also allow the use of any plows, scrapers or other implements owned by the township for road purposes.

SEC. 2. That said original sections two, three and six of said act, by this act amended, and also that sections four, five, seven, eight, nine, ten and thirteen of said original act be and the same are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 2, 1873.



## AN ACT

To authorize certain appropriations for the temporary relief and accommodation of the "Girls' Industrial Home."

WHEREAS, The fire at the "Girls' Industrial Home," at White Sulphur Springs, which destroyed part of the buildings and furniture, has rendered it necessary that some immediate relief be afforded; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That fifteen hundred dollars be and is hereby appropriated for the purpose of replacing bedsteads and furniture destroyed; the sum of fifteen hundred dollars to meet the expenses of repairs immediately necessary, to make available the buildings now remaining on the ground.

Appropriation for furniture and repairs.

SEC. 2. This act shall be in force from its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 2, 1873.

## AN ACT

To amend section 18 of chapter II. of an act entitled "An act to regulate insurance companies doing an insurance business in the state of Ohio," passed April 27th, 1872. (69 O. L., page 140.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section eighteen of chapter 2 of an act entitled "An act to regulate insurance companies doing an insurance business in the state of Ohio," passed April 27, 1872, be amended so as to read as follows:

Section 18. It shall not be lawful for any life insurance company, organized by act of congress, or by or under the laws of any other state of the United States, to transact any business of insurance in this state, without first procuring from the superintendent of insurance a certificate of authority so to do; nor shall it be lawful for any person or corporation, directly or indirectly, to act as agent in this state for any such company, either in procuring applications for insurance, taking risks, or in any manner transacting the business of insurance, without first procuring from the superintendent of insurance a license so to do, in which said superintendent shall state that said company has complied with all the requisitions of this act applicable to such company, and depositing a certified copy of such license in the office of the recorder of the county

Insurance company must procure certificate of authority.

Agent must procure license.

**Amount of capital requisite.**

**Written instrument must be filed.**

**Service of summons by mail in certain cases.**

**Charter, &c., to be filed.**

**Investment of capital in bonds, &c.**

in which the office or place of business of such agent shall be established; nor shall it be lawful for any such insurance company to take risks, or transact any business of insurance in this state, unless possessed of the amount of actual capital required of similar companies organized in this state, under the provisions of this act; nor unless the entire capital stock of said company is fully paid up, and invested, as required by the laws of the state where organized; and any such company, desiring to transact any such business in this state, by an agent or agents, shall file with the superintendent of insurance a written instrument, duly signed and sealed, authorizing any agent or agents of such company in this state, to acknowledge service of process for and in behalf of such company in this state, consenting that the service of process, mesne or final, upon any such agent or agents, shall be taken and held to be valid, as if served upon the company, according to the laws of this or any other state or government, and waiving all claims or right of error by reason of such acknowledgment of service; also waiving all claim or right to transfer or remove any cause then and thereafter pending in any courts of this state, wherein such company may be a party, to any of the courts of the United States; and, in case suit shall be brought against any company which has ceased to do business in this state, as aforesaid, and there shall be no agent of said company in the county in which suit is brought, upon whom service of process can be had, as provided in section 19 of this act, service upon such company shall be had by the sheriff mailing a copy of the summons or other process, postage prepaid, addressed to such company at the place of its principal office, located in the state where such company was organized; in case of a company organized under the laws of any state of the United States, and in case of a foreign insurance company, then such copy of summons or other process shall be mailed, postage prepaid, to such company, or the place of its principal office in the United States, at least thirty days prior to the date of taking judgment in said suit; provided, that the sheriff's return shall show the time and manner of such service. Said company shall also file a certified copy of its charter or deed of settlement, together with a statement, under the oath of the president, vice president, or other chief officer or manager, and secretary of such company, stating the name of the company, the place where it is located, and amount of its capital, with a detailed statement of all the facts required in the annual statements required of companies organized under this chapter, except as to statement required by item fourteen, section seventeen, of this chapter, which statement shall be required of said companies only when required by the superintendent of insurance, for purposes of actual valuation, as provided by the insurance laws of this state; also, a copy of their last annual report, if any were made; nor shall it be lawful for any such company to transact any business of insurance in this state, unless at least one hundred thousand dollars of its capital is invested in the interest paying bonds or stocks of the United States,

or of this state, or of some other state of the United States, of the market value of one hundred thousand dollars, in the city of New York, or in bonds and mortgages of unincumbered real estate in this state, or in the state under the laws of which such company is or may be organized, of at least double the value of the amount loaned thereon; and such bonds and mortgages deposited with the superintendent of insurance of this state, or the chief financial or other officer of the state in which such company is or may be organized, designated by the laws of such state to receive the same; and if said bonds and mortgages be deposited with the superintendent of insurance or other officer of another state as aforesaid, the superintendent of insurance of this state shall be furnished with the certificate of such other state officer, under his hand and official seal, that he, as such officer, holds in trust and on deposit, for the benefit of all the policy holders of such company, the securities above mentioned, giving the items of such securities, and stating that he is satisfied such securities are worth at least one hundred thousand dollars: Provided, that nothing herein contained shall be construed to prevent the company from collecting the interest on such securities, so long as it continues solvent, and complies with all the provisions of this act applicable to it, nor from exchanging for other securities of equal value, and of the kind hereinbefore named, with the officers having them in trust as aforesaid; and provided, further, that in the cases of mutual companies, actual cash assets of the same amount and description, invested and deposited as required by the laws of the state wherein organized, shall be accepted in lieu of capital stock; provided, that no answer or answers to any interrogatory or interrogatories, made by any applicant, in his or her application for a life policy, shall bar the right to recover upon any policy issued upon such application, or be used in evidence upon any trial to recover upon such policy, unless such answer or answers shall first be clearly proven to have been willfully false and fraudulently made, and that such answer or answers are material, and induced such policy to be issued, and but for such answer or answers such policy would not have been issued; and, moreover, that the agent or company had no knowledge of the falsity or fraud of such answer or answers.

Interest may  
be collected  
on securities,  
&c.

SEC. 2. That original section 18 of chapter two of the above recited act is hereby repealed.

SEC. 3. This act shall take effect from its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 2, 1873.

## AN ACT

To amend section two hundred and ninety-nine of an act entitled "An act to provide for the organization and government of Municipal Corporations," passed May 7, 1869.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section two hundred and ninety-nine of an act entitled "an act to provide for the organization and government of municipal corporations," passed May 7, 1869, be so amended as to read as follows:

Election and qualification of directors; compensation.

Section 299. That said directors shall be electors and be elected by the qualified electors of the corporation, and shall hold their office for three years, except that at the first election, one of said directors shall be chosen to serve for one year, one for two years, and one for three years, and thereafter one shall be elected annually. Said directors shall receive such compensation as the city council may, by ordinance, provide.

SEC. 2. Said original section two hundred and ninety-nine is hereby repealed, and this act shall be in force from its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 2, 1873.

## AN ACT

To provide for the settlement of the accounts of Trustees.

Testamentary trustees must render biennial account.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That any trustee heretofore or hereafter created by any last will or deed, or appointed by any competent authority, to execute any trust created by any such last will or deed, shall, as often as once each two years, render an account of the execution of his said trust, to the probate court of the county in which he was appointed, or in which such last will or deed may be recorded, in the manner provided by law for the settlement of the accounts of executors and administrators: Provided, this act shall not apply, in any case in which the will or deed creating such trust designates any other tribunal for the settlement of the trust, or in which any other tribunal shall have acquired jurisdiction.

Publication of citations and notices.

SEC. 2. The probate judges of the several counties of this state are hereby authorized and empowered for that purpose, to issue and have served in the same manner as is or may be provided by law, in the case of the settlement of executors and administrators, the necessary citations and notices by publi-

cation or otherwise, requiring all persons interested, to attend such settlement and make objections thereto, if any they have.

SEC. 3. The said probate judge shall have full power to hear and determine all matters relative to the manner in which said trustee has executed his said trust, and as to the correctness of his accounts rendered as aforesaid; and the said probate judge shall have power to require any trustee, created as aforesaid within his county, on the determination of his said trust, or on the removal or resignation of such trustee, or in case of the death of the trustee, to require his executor or administrator to render a final account of the manner in which he has executed his said trust, and the said judge shall hear and determine all matters relating thereto, in the same manner as the accounts of executors and administrators are required by law to be settled; and said court shall make and keep a full record of all accounts filed, and proceedings had in said probate court under this act.

Probate judge to determine as to execution of trust.

SEC. 4. The determination of the probate court on any such settlement, whether final or intermediate, may be appealed from in the manner provided for an appeal from said court on the settlement of the accounts of executors and administrators, and the like proceedings shall be had on such appeal, and the result of such proceedings on appeal certified back to the probate court.

Appeal from determination of probate judge.

SEC. 5. The determination of the probate judge on any settlement provided for in this act, shall have the same force and effect as the like determination as to the account of an administrator or executor; and when an account is settled in the absence of any person adversely interested, and without actual notice to him, the account may be opened on his filing exceptions to the account, at any time within eight months thereafter; and upon any settlement of an account by a trustee, all his former accounts may be so far opened as to correct any mistake or error therein, excepting that any matter of dispute between two parties, which had been previously heard and determined by the court, shall not be again brought in question by either of the same parties without leave of the court.

Force and effect of the determination.

SEC. 6. The probate court shall have power to make such allowance as compensation to trustees for their services and expenses in executing their trusts, as he may deem just and equitable, not exceeding the compensation allowed to guardians for like services; and said judge shall have the same fees as in the settlements of administrators and executors.

Allowance of compensation.

SEC. 7. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 2, 1873.

## AN ACT

To regulate contracts on behalf of the State.

Plans and estimates of public buildings must be prepared.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That in all cases where the directors, trustees, commissioners or other officer or officers, to whom is confided by law the duty of devising and superintending the erection, alteration, addition to, or improvement of any state institution, asylum or other improvement, (excepting the penitentiary,) erected or now being erected, or to be erected by the state, such directors, trustees, commissioners or other officer or officers, before entering into any contract for the erection, alteration, addition to, or improvement of such institution, asylum or other improvement, or for the supply of materials therefor, the aggregate cost of which erection, alteration, addition or improvement and materials therefor, exceed the sum of three thousand dollars, shall make, or procure to be made, a full, complete and accurate plan or plans of such institution, asylum or other improvement, or of any addition to, or alteration or improvement thereof, in all its parts, showing all the necessary details of the work, together with working plans suitable for the use of the mechanics or other builders during the construction thereof, so drawn and represented as to be plain and easily understood; and also, accurate bills showing the exact amount of all the different kinds of materials necessary in the erection thereof, addition thereto, or in the alteration or improvement thereof, to accompany said plan or plans; and also, full and complete specifications of the work to be done, showing the manner and style in which the same will be required to be done, giving such directions for the same as will enable any competent mechanic or other builder to carry them out, and afford to bidders all needful information to enable them to understand what will be required in the erection, addition to, alteration or improvement of such institution, asylum or other improvement; and to make or cause to be made a full, accurate and complete estimate of each item of expense, and the entire aggregate cost of such institution, asylum or other improvement, or of any addition to, alteration or improvement thereof, when completed.

To be submitted to the governor, &c., for approval.

SEC. 2. That such plans, drawings, representations, bills of materials and specifications of work, and estimates of the cost thereof, in detail and in the aggregate, as are required in the first section of this act to be made, shall be, when made, submitted to the governor, auditor and secretary of state for their approval, and if approved by the governor, auditor and secretary of state, a copy thereof shall be deposited and safely kept in the office of said auditor of state.

Public notice for proposals.

SEC. 3. That after such plans, descriptions, bills of materials, and specifications and estimates as are in this act required, are made and approved in accordance with the requirements of this act, it shall be and is hereby made the duty of such directors, commissioners, trustees or other officer or officers to whom the duty of devising and superintend-

ing the erection, addition to, alteration or improvement of such institution, asylum or other improvement, as in this act provided, to give or cause to be given public notice of the time and place, when and where sealed proposals will be received for performing the labor and furnishing the materials necessary to the erection of such institution, asylum or other improvement, or for the adding to, altering or improvement thereof, and a contract or contracts, based on such sealed proposals will be made; which notice shall be published weekly for four consecutive weeks next preceding the day named for the making of such contract or contracts, in the paper having the largest circulation in the county where the work is to be let, and in one or more daily papers having the largest circulation and published each in the cities of Cincinnati, Cleveland, Columbus and Toledo, and shall state when and where such plan or plans, descriptions, bills and specifications can be seen, and which shall be open to public inspection at all business hours between the date of such notice and the making of such contract or contracts.

SEC. 4. That on the day named in said public notice, said directors, trustees, commissioners or officer or officers as aforesaid, shall proceed to open said sealed proposals, and shall award such contract or contracts for doing the work, and furnishing materials for the same to the lowest bidder: Provided always, that no proposals shall be considered unless accompanied with a bond of said proposer, with sufficient sureties, conditioned that if said proposal shall be accepted the party proposing will duly enter into a proper contract, and faithfully perform his or their contract or contracts, in accordance with said proposal, and the plan or plans, specifications and descriptions, which shall be and are hereby made a part of such contract or contracts; and provided further, that such contract or contracts shall not be binding on the state until they are submitted to the attorney general and by him found to be in accordance with the provisions of this act, and his certificate thereon to that effect made; and, provided further, that if in the opinion of such directors, trustees, commissioners, or other officer or officers, the acceptance of the lowest bid or bids shall not be for the best interests of the state, it may be lawful for them, with the written advice and consent of the governor, auditor and secretary of state, to accept such proposal or proposals opened, as in their opinion may be better for the interests of the state, or reject all proposals and advertise for others in the manner aforesaid. All contracts shall provide that such directors, trustees, commissioners, or other officer or officers may, as hereinafter provided, and on the conditions stated, make any change in the work or materials.

SEC. 5. That no change of the plan or plans, descriptions, bills of materials or specifications which shall either increase or decrease the cost of said institution, asylum, building or improvement exceeding the sum of one thousand dollars, shall be made or allowed, after they are once approved and filed with the auditor of state as herein required, until such

Awarding of  
contracts.

When  
change of  
plans, &c.,  
may be  
made.

proposed change has received the approval of the governor, auditor and secretary of state; and when so approved, the plan or plans of such change, with the descriptions thereof and the specifications of the work and bills of material, shall be filed with the auditor of state in the same manner as required before such change was made, and no allowance whatever shall be made for work performed or materials furnished under such change of plan or plans, or descriptions or specifications, or bills of materials, unless before such labor is performed and materials furnished, a contract or contracts therefor is made, in writing, which contract or contracts shall show distinctly the nature of such change, and shall be subject to all the conditions and provisions herein imposed upon the original contracts, and be subject also to the approval of the attorney general, as hereinbefore provided: Provided, further, that all changes in the contract of less than one thousand dollars, shall be by contracts in writing, with full specifications and estimates, and shall become a part of the original contract, and shall be filed with the auditor of state with the original contract; provided, further, that the amount of such change in the contract, plans, descriptions, bills of materials or specifications less than one thousand dollars, shall not in the aggregate increase the cost of the construction of said institution, asylum, building or improvement, more than two and one-half per centum of the original contract price or cost.

Prices in excess of estimates prohibited.

SEC. 6. That no contract or contracts shall be made for the labor or materials herein provided for, at a price in excess of the estimates in this act required to be made for any particular class of work; and the entire contracts shall not, including estimates of expenses for architects and otherwise, exceed in the aggregate the amount authorized by law for such institution, asylum, or other improvement, or such addition to, or alteration or improvement thereof.

Detailed estimates of labor and materials to be recorded and copy addressed to auditor, &c.

SEC. 7. At the time or times named in the contract or contracts made and filed with the auditor of state, or which had been previously made and filed with the auditor of state, in accordance with the provisions of this act for payment to the person or persons with whom such contract or contracts had been made, it shall be and is hereby made the duty of the directors, trustees, commissioners or other officer or officers to whom is confided the duty of superintending the erection of such institution, asylum or improvement, or adding to, altering or improving the same, to make or cause to be made a full, accurate and detailed estimate of the various kinds of labor and materials performed and furnished under such contract or contracts, with the amount due for each kind of labor and material, and the amount due in the aggregate, which estimate shall be based upon an actual measurement of the labor and materials so performed and furnished, which estimate shall, in all cases, give the amounts of the preceding estimate or estimates, and the amount of labor performed and material furnished since the last estimate, which estimate or estimates so made, as in this act required, shall be recorded in a book for that purpose to be provided, and



kept, or caused to be kept, by the said directors, trustees, commissioners or other officer or officers, and a certified copy thereof addressed to the auditor of state by the said directors, trustees, commissioner or other officer or officers, or by such person as they may designate for that purpose. delivered to the contractor or contractors entitled thereto: Provided, that upon all estimates of material furnished and delivered, and not actually having entered into and become a part of said building, there shall not be paid, until the same shall be incorporated into and become a part of said building, exceeding fifty per centum of such estimated value.

SEC. 8. It shall be the duty of the auditor of state, on the receipt of such estimate so certified and approved, to compare carefully the same with the contract or contracts under which labor was done or materials furnished, and if there had been any previous estimates, then with such estimates; and if upon such comparison he shall find such last named estimate in all respects correct, he shall number the same, place it on file, and have a record thereof made, and give to the person or persons entitled thereto, taking his or their receipt therefor, a warrant on the treasurer of state for the amount shown by such estimate or estimates to be due, less the amount of five per cent. thereon, which shall be retained as an additional security for the faithful performance of his or their contract or contracts, and shall be forfeited to the state in the event of a failure of such contractor or contractors to conform in good faith to the terms and conditions of such contract or contracts; but when the labor to be performed and materials furnished under such contract or contracts is performed and furnished, and a final estimate thereof made, the auditor of state shall include in the warrant or warrants for the amount of such last estimate the percentage retained on former estimates: Provided, that such percentage shall not be retained on estimates made under existing contracts, unless the same is authorized by the terms thereof.

SEC. 9. The treasurer of state shall pay the warrants issued by the auditor of state, under and by virtue of the provisions of this act, placing the same on file, and keeping a register of the names of the person or persons to whom such warrants are paid.

SEC. 10. Any director, trustee, commissioner, or other officer or person otherwise appointed, and whose duty it is to superintend, in whole or in part, the erection of such institution, asylum or improvement, or of adding to, altering or the improvement thereof, or the making of the plans, descriptions and specifications of the labor to be performed and materials to be furnished as provided in this act, and the estimates of the cost thereof, or the estimates of the amount of labor done and materials furnished from time to time under and in accordance with the terms and conditions of the contracts in this act authorized to be made, and the provisions of this act, who shall, in the performance of the duty herein imposed upon him or upon them, knowingly make incomplete or fraudulent plans, drawings, bills of materials, specifications of work or estimates of cost thereof, or permit the

Auditor to compare before issuing warrant, &c.

Five per cent. to be retained as security.

Payment of warrants.

Penalty for changing plans, making false estimates, &c.

work to be done in any other mode or manner than as prescribed in such plans, descriptions and specifications, or with materials different from that required by such bills of materials, to the injury of the state, or shall knowingly make false estimates of the labor done or materials furnished, either in the quantity or price thereof, to the injury of the state, or any contractor, or any agent of any contractor or contractors, who shall knowingly permit material to be used or work to be done different from or in violation of the contract of such contractor or contractors, to the injury of the state, shall be deemed and held guilty of a felony, and upon conviction thereof shall be confined in the penitentiary for not less than one year nor more than five years, and be liable to the state for double the amount the state may have lost or be liable to lose because thereof.

Attorney  
General to  
enforce this  
act.

SEC. 11. It shall be the duty of the attorney general to have charge of and direct all the proceedings necessary to enforce the contracts authorized by this act and the provisions of this act against such person or persons as become liable to the penalties herein prescribed.

Duty of trustees when  
contractor  
fails in the  
performance  
of contract.

SEC. 12. Whenever in the opinion of the trustees, directors, commissioners or other officers charged with the duty of devising and superintending the erection, alteration, addition to or improvement of any state institution, asylum or other improvement under this act or any law of this state, the work under any contract made in pursuance of this act or any such law, is neglected by the contractor or contractors, or that the same is not prosecuted with the diligence and force specified, meant or intended in and by the terms of the contract, it shall be lawful for such trustees, commissioners, directors or other officers, to make a requisition upon such contractor or contractors for such additional specific force, or for such additional specific materials, to be brought into the work under said contract, or to remove improper material from the grounds, as in the judgment of such trustees, directors or other officers, said contract and its due and faithful fulfillment require, of which action of said board or other officers due notice in writing of not less than five days shall be served upon such contractor or his or their agent having charge of the work. And if such contractor or contractors fail to comply with such requisition within fifteen days, it shall be lawful for said trustees, directors, or other officers, with the written consent of the governor, auditor of state and secretary of state, to employ upon such work the additional force, or supply the materials so specifically required as aforesaid, or such part of either as they may deem proper, and to remove improper materials from the grounds; and it shall be the duty of such trustees, directors or other officers to make separate estimates of all such additional force or materials so employed or supplied as aforesaid, and which being certified by said trustees, directors, commissioners or other officers shall be paid by the auditor of state, the same as if made out agreeably to section seven of this act, and the amount so paid shall be charged against said contractor or contractors, and deducted from his or their next or any subsequent estimate; or the

same, or any part thereof, not paid as aforesaid, may be recovered by action from such contractor or contractors, and their sureties.

SEC. 13 In all contracts made under the provisions of this act, there shall be a provision in regard to the time when the whole or any specified portion of the work contemplated in said contract shall be completed, and also providing that for each and every day the same shall be delayed beyond such time or times so named, the said contractor or contractors shall forfeit and pay to the state a sum to be fixed and determined in said contract, to be deducted from any payment or payments due or to become due to said contractor or contractors.

Provision as to time of completion of contract.

SEC. 14. The act entitled an act prescribing the duties of directors, trustees, commissioners or other officer or officers to whom is confided the duty of devising and superintending the erection, alteration, addition to, or improvement of, any state institution, asylum, or other improvement, passed April 3, 1868, (S. & S., 637,) and the act to amend section thirteen of the last named act, passed May 14, 1868, (S. & S. 640,) be and the same are hereby repealed: Provided, however, that no rights accrued, or liabilities incurred under said acts, or either of them, shall be affected by such repeal; but all contracts now made and not performed shall, as far as practicable, be performed, completed, and enforced and settled for under this act, or may by the consent of the contracting parties be made to conform to and proceed under the provisions of this act.

Acts repealed.

SEC. 15. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate*

Passed April 3, 1873.

## AN ACT

Accepting the act of Congress of the United States, approved February 18, 1871, ceding to the State of Ohio certain lands in the Virginia Military District, and to provide for the disposal of the same, and to repeal certain acts hereinafter mentioned.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the unsurveyed and unsold lands ceded to the state of Ohio by a certain act of congress of the United States, approved February 18th, 1871, situate and being in the Virginia Military District between the great Scioto and the Little Miami rivers in said state, be and the same are hereby accepted by the state of Ohio, subject to the provisions of said act.

Acceptance of ceded land

Compensation for damages to lands may be demanded, &c.

SEC. 2. That the trustees of the Ohio Agricultural and Mechanical College are hereby authorized to demand from all persons who have destroyed or converted any timber growing upon the lands ceded to the state of Ohio, as stated in the act to which this is supplementary, since the date of said act of congress ceding said lands to the state of Ohio, full compensation for the timber so destroyed or converted, and for all damages, and if payment shall be refused, to institute proper proceedings in the name of said Ohio Agricultural and Mechanical College, in any court of competent jurisdiction, to recover the same with damages and costs of suit: Provided, that the provisions of this section shall not apply to timber taken from the one hundred and sixty acres by any person who shall obtain the title to the same under section three of this act.

Title of lands invested in trustees of agricultural college, &c.

SEC. 3. The title of said lands is hereby vested in the trustees of the Ohio Agricultural and Mechanical College, for the benefit of said college; and said trustees are hereby required to cause a complete survey of said lands to be immediately made, and a correct plat thereof to be returned to said trustees, and to ascertain and set off, in reasonably compact form, by accurate boundaries to each occupant who was in actual possession of and living upon any of said lands at the time of the passage of said act of congress, as provided therein, or their heirs and assigns, a tract not exceeding forty acres; and upon the payment, by the claimant, of the cost of surveying and making the deed, the said trustees shall make and deliver to said claimant a deed for said tract; and if any such occupant shall have been in such actual possession of more than forty acres, and is desirous of holding the same, he shall be entitled to have in addition to said forty acres, any number of acres not exceeding, with said forty acres, the number of one hundred and sixty acres, to be in reasonably compact form, by paying for the said excess over forty acres, the sum of one dollar per acre; and if any claimant under the provisions of this act shall desire to purchase any tract of land adjoining said forty acres, not exceeding, including said forty acres, the amount of one hundred and sixty acres, of which said claimant shall have been in actual possession, but does not desire to purchase the same at one dollar per acre, said trustees, upon notice by said claimant, shall cause said tract or part of tract to be sold separate from other tracts of land at a valuation fixed upon by the appraisers named in this act, payable one-third at the date of the survey, and the residue in two equal annual installments, with interest at six per cent., payable annually, and upon full payment being made with the cost of survey and conveyance, said trustees shall make and deliver to such claimant, his or her heirs or assigns, a deed for said excess over said forty acres: Provided, that any person claiming the benefit of the provisions of this section as occupant, shall comply in all respects with, and be subject to the provisions of the thirteenth sec.

tion of the act of congress, approved September 4, 1841, entitled an act to appropriate the proceeds of the sales of the public lands and to grant pre-emption rights, and to the rules and regulations of the general land office of the United States relating to proof for the establishment of pre-emptor's claims: Provided, however, that the affidavit required by said thirteenth section of said act of congress may be made before any justice of the peace or other officer authorized to administer oaths.

**SEC. 4.** All the unsurveyed and unsold lands in said military district, not occupied as aforesaid, shall be divided by said trustees into such tracts, not exceeding five hundred acres in any one boundary, as will be most advantageous, reference being had to the quality of said lands and the uses to which they will be applied; the boundaries to all such tracts and divisions shall be accurately surveyed, and the lines of each tract plainly marked, and substantial stone monuments firmly placed at the principal corners. The character of the soil, water-courses, elevation of hills, timber, ledges, or stratas of the Waverly building stone, iron ore, fire clay, and limestone, shall be fully noted by the surveyors on their plats and in their field books. All the tracts so divided and surveyed shall be numbered in consecutive order, commencing with the tracts in Adams county, and so continuing until all said lands in said district shall be platted and numbered; which numbers shall be shown upon the plats, and the said plats shall correctly indicate all township lines. The said lands, when so divided, surveyed and numbered, shall be appraised in separate tracts at their true value in money, by three qualified freehold residents in said state, to be summoned by said trustees, or any committee of theirs. Said appraisers, before entering upon their duties, shall take and subscribe an oath before competent authority honestly and impartially to appraise all such lands, and to perform all other duties in relation thereto; they shall each be paid two dollars a day for their services, and their expenses allowed them; they shall make due return of all their appraisements to said trustees, which, with all said plats and surveys, shall be delivered by them to the auditor of state, and the same shall be recorded in the office of said auditor in suitable books to be provided for such purpose; which, with all such original plats, surveys and papers, shall form a part of the public records of the state in the land department of said office.

Division of  
unsold lands  
into tracts,  
&c.

Tracts to be  
numbered  
and apprais-  
ed.

**SEC. 5.** And the said trustees are hereby authorized and required to sell all of said lands at public or private sale, at a price not less than the appraised value thereof, on such terms for cash and credit as may be agreed upon between the purchaser and said trustees or any authorized agent of theirs: Provided, that the first payment shall, in every case, be not less than one-third of the appraised value of such tract; all deferred payments shall bear six per cent. interest, to be paid annually, and said trustees may, in their discretion, extend subsequent annual payments through a period not exceeding

To be sold at  
private or  
public sale.

five years. All public sales of said lands shall be by auction, at the front door of the court-house of the county in which these lands so offered lie, after having been advertised five consecutive weeks in a newspaper published and generally circulated in such county; such notices of sale shall contain a sufficient description of the premises to clearly identify the same, with a statement of the terms of payment and the amount of appraisement, and all such public sales shall be made at such times as said trustees shall deem expedient; and in case such land or any tract thereof shall not sell for the amount of the appraisement at such public sale, then upon the same being again offered as aforesaid at public sale, the same may be sold for any sum not less than three-fourths of the appraisement: Provided, that no trustee of said college or appraiser of said land shall be the purchaser of any of said lands at any such sale or sales, either directly or indirectly. The said trustees shall cause all contracts for the sale of said lands to be printed or written in a book or books stating the consideration and terms of all sales, which said contracts shall be signed in duplicate by the said trustees or any authorized agent of theirs, and by the purchaser or purchasers, one copy of which shall be preserved in said book, and the other shall be delivered to the purchaser at the time the same shall be signed; and every purchaser shall execute his promissory note or notes, with interest, payable as aforesaid, for all deferred payments, which notes shall be non-negotiable, and payable to said college at such place or places as may be directed by said trustees; and upon full payment being made by the purchaser, his heirs or assigns, for any such land, every such person shall be entitled to receive a conveyance therefor in fee simple by deed of said trustees, executed by the president of the board, under the corporate seal of said college; and all lands disposed of under the provisions of this act, shall be returned by said trustees to the auditors of the counties in which they are situate, and by them be placed on the duplicate for taxation.

Contracts of  
sale to be re-  
corded, &c.

Proceeds to  
be certified  
into treasury.

SEC. 6. The proceeds of the sales of all such lands, after payment out of the same of all the necessary expenses of survey and sale, shall be certified into the treasury of said state as provided by law, and the same be placed to the credit of the irreducible fund of said college, and shall form a part of said irreducible debt of the state, on which interest shall be computed semi-annually, and paid to said college as may be ordered by the board of trustees; and they shall annually report to the governor a detailed statement of receipts and disbursements in the execution of the trusts created under the provisions of this act.

Acts repeal-  
ed.

SEC. 7. The act entitled an act to sell lands ceded to the state of Ohio by the congress of the United States by act of congress, approved February 18th, 1871, passed March 26, 1872, and the act supplementary thereto and amendatory thereof, passed April 29th, 1872, be and they are hereby repealed: Provided, that the passage of this act shall in nowise affect the validity of the transactions of said board of

trustees, or rights vested in any person, under the provisions of said acts; and this act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 JACOB MUELLER,  
*President of the Senate.*

Passed April 3, 1873.

## AN ACT

For the maintenance and support of illegitimate children, and to repeal certain acts therein named.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That when any unmarried woman, who has been delivered of or is pregnant with a bastard child, shall make complaint thereof in writing under oath, before any justice of the peace, charging any person with being the father of such child, such justice shall thereupon issue his warrant, directed to any sheriff or constable of this state, commanding him to pursue and arrest such accused person in any county in this state, and bring him forthwith before said justice to answer such complaint.

Warrant for arrest of father of illegitimate child.

SEC. 2. On the return of such warrant, the justice, in the presence of the accused person, shall examine the complainant, under oath, respecting the cause of her complaint; provided, that if either party desire it, and upon good cause shown, said justice may continue said cause for a period not to exceed ten days, upon the defendant's entering into a recognizance to appear at the time fixed by said justice for the hearing of said complaint, with sufficient security in a sum not less than three hundred nor more than six hundred dollars, for the benefit of the township in which such bastard child shall be born, to answer such complaint and abide the order of said justice, and such accused person shall be allowed to ask the complainant, when under oath, any question he may think necessary for his justification, all of which questions and answers shall be reduced to writing by the justice of the peace, and subscribed by the complainant; and if, on such examination, the party accused shall pay, or secure to be paid to the complainant, such sum or sums of money or property as she may agree to receive in full satisfaction, and shall further give bond to the trustees of the township in which said complainant shall reside, and their successors in office, conditioned to save such township free from all charges towards the maintenance of said child, then and in that case, the justice shall discharge the party accused out of custody, on his paying the costs of prosecution: Provided, that the agreement aforesaid shall be made or acknowledged by both parties, in the presence of the justice, who shall thereupon enter a memorandum of the same upon his docket.

Proceedings on return of warrant.

Compromise allowable.

Trustees or directors may bring suit, &c.

SEC. 3. That when any woman has a bastard child, and neglects to bring a suit for its maintenance, or commences a suit and fails to prosecute to final judgment, the trustees of any township interested in the support of such bastard child, or the directors of any county infirmary in which she may be a pauper, where sufficient security is not offered to save such township or county from expenses, may bring a suit in behalf of such township or county respectively, against him who is accused of begetting such child, or may take up and prosecute a suit begun by the mother of such child.

Recognizance to be required when accused person does not comply, &c.

SEC. 4. That in case such accused person does not comply with the provisions in the first and second sections of this act contained, the justice to whom such complaint was made, shall bind such person in a recognizance to appear at the next term of the court of common pleas, with sufficient security, in a sum not less than three hundred dollars, nor more than six hundred dollars, for the benefit of the township in which such bastard child shall be born, to answer such accusation and to abide the order of said court thereon; and no [on] neglect or refusal to find such security, the justice shall cause him to be committed to the jail of the county, there to be held to answer such complaint.

Discharged when recognizance entered into.

SEC. 5. Any person committed to jail for failure to give such recognizance, may be discharged from custody by entering into such recognizance, with sufficient securities in any sum not less than one hundred dollars, nor more than six hundred dollars, to be taken and approved by a judge of the court of common pleas, or the probate judge of the county, and by him filed in the office of the clerk of the court of common pleas.

Transcript of proceedings to be filed with clerk.

SEC. 6. It shall be the duty of the justice before whom the examination is had, to file within thirty days thereafter, with the clerk of the court of common pleas of the county in which the proceedings were had, a certified transcript of the proceedings of said cause, together with the recognizance and all other papers therein.

Continuance of cause in certain cases.

SEC. 7. If at the next term of said court the complainant has not been delivered or is unable to attend, or if there is any other sufficient reason therefor, the court may order a continuance of the cause, and such continuance shall operate as a renewal of the recognizance, which shall remain in full force until final judgment: Provided, that if the sureties on the recognizance at any term of said court surrender the accused and request to be released from such recognizance, or if the court shall deem such recognizance insufficient, it may order a new recognizance to be taken, cancel such first recognizance and commit the accused until a new recognizance be given.

Forfeiture of recognizance.

SEC. 8. That in case the accused fails to appear at the term of the court to which he is recognized, his recognizance shall be forfeited, and if a verdict of guilty be rendered, and judgment therein as hereinafter provided, the amount of such forfeited recognizance shall be applied in payment thereof to the extent of such recognizance.



SEC. 9. That when such accused person shall plead not guilty to such charge before the court to which he is recognized or required to appear, or having been recognized fails to appear, the court shall order the issue to be tried by a jury; and at the trial of such issue, the examination before the justice shall be given in evidence; and the mother of the bastard child shall be admitted as a competent witness, and her credibility left to the jury.

Issue to be  
tried by jury.

SEC. 10. That in case the jury find the defendant guilty, or such accused person before the trial shall confess in court that the accusation is true, he shall be judged the reputed father of such child, and shall stand charged with the maintenance thereof in such a sum or sums as the court shall order and direct, with payment of costs of prosecution, and the court shall require the reputed father to give security to perform the aforesaid order; and in case the said reputed father shall neglect or refuse to give security as aforesaid, and pay the costs of prosecution, he shall be committed to the jail of the county, there to remain till he shall comply with the order of the court: Provided, that such putative father, confined in prison for not complying with the sentence and order of the court, as in this section provided, shall be entitled to the benefit of the prison rules, and of the act for the relief of insolvent debtors, in the same manner and upon the same principles as persons imprisoned for debt.

Guilty party  
to be judged  
father of  
child, and  
must give  
security, &c.

*Amended -*

72: 49.

SEC. 11. That the death of the mother shall not abate such prosecution if the child is living, but a suggestion of record of the fact shall be made and the name of the child substituted for that of the mother, and a guardian *ad litem* appointed for that purpose, who shall not be liable for costs; and in such case the testimony of the mother, taken in writing before the justice, may be read in evidence.

Death of  
mother not  
to abate  
prosecution.  
&c.

SEC. 12. That upon the death of any bastard child, after judgment rendered as aforesaid, and before the expiration of the time limited for the last payment on such judgment, the court rendering such judgment may, on motion and notice, make such reduction in the amount of the same as may be rendered proper and just in consequence of such death.

Reduction of  
penalty on  
death of  
child.

SEC. 13. That the death of a bastard child shall not be cause of abatement or bar to any prosecution for bastardy, but the court trying the same shall, on conviction, take said death into consideration and give judgment for such sum as shall be deemed just.

Effect of  
death of  
child.

SEC. 14. That in case a warrant is issued, as hereinbefore provided, and the same is returned by the officer to whom it is directed, showing that the accused could not be arrested, it shall be the duty of said justice, upon demand, to forthwith make a certified transcript of the proceedings had before him, including copies of the complaint and warrant, with the return thereon, and deliver the same to said complainant, her agent or attorney.

Transcript  
where ac-  
cused cannot  
be arrested.

SEC. 15. That upon the filing of the transcript aforesaid in the clerk's office of the court of common pleas of the

Order of attachment—its contents.

county in which said justice resides, an order of attachment shall be made by the clerk of said court, when there is filed in his office an affidavit of the complainant, her agent or attorney, showing:

First—That the complainant is the mother of a bastard child, or that she is pregnant with child, which, if born alive, will be a bastard; and Second—That the accused person is the father of said child; and Third—The existence of one or more of the following grounds: 1st—That the accused is a non-resident of this state; or 2d—Has absconded with the intent to defraud complainant; or 3d—Has left the county of his residence to avoid the service of a warrant; or 4th—So conceals himself that a warrant cannot be served upon him.

Terms of order of attachment.

SEC. 16. The order of attachment shall issue without an undertaking. The order of attachment shall be directed and delivered to the sheriff. It shall require him to attach the lands, tenements, goods, chattels, stocks, or interest in stocks, rights, credits, moneys and effects of the accused, ~~in~~ his county, not exempt by law from execution, not exceeding in appraised value one thousand dollars, to secure the payment of such sum or sums as the court may order and direct for the maintenance of such bastard child, together with the costs of prosecution. Orders of attachment may be issued to the sheriffs of the different counties, and several of them may, at the option of the plaintiff, be issued at the same time or in succession, but such only as have been executed shall be taxed in the costs, unless otherwise directed by the court.

Copy of attachment to be left with garnishee.

SEC. 17. When the complainant, her agent or attorney, shall make oath in writing, that the affiant has good reason to and does believe that any person or corporation in said affidavit named, has property of the accused in his or its possession (describing the same), if the officer cannot get possession of such property, he shall leave with such garnishee, a copy of the order of attachment, with a written notice to appear in court and answer.

Same proceedings as in civil actions.

SEC. 18. The same rights, powers and proceedings shall be had in all respects under attachments issued by virtue of this act, the order of attachment shall be executed, served and returned, the attached property be bound, the garnishee liable to complainant, and the property disposed of in the same manner as is provided by law in civil actions.

Publication of notice of attachment.

SEC. 19. Upon the return of the order of attachment, a notice of the pendency of said proceedings, stating the object thereof, the substance of said complaint, and that an order of attachment has been issued and served therein, may be given by publication in some newspaper of general circulation in said county in which the case is pending, for the term of six consecutive weeks, and in such case copies of the complaint and order of attachment with the return thereon, shall forthwith be deposited in the postoffice, directed to the accused at his place of residence, unless it shall be made to

appear to the court, by affidavit or otherwise, that such residence is unknown to the complainant, and could not, with reasonable diligence, be ascertained by her. If the defendant's place of residence is unknown, personal service of certified copies of the complaint and order of attachment with the return thereon, may be made, at complainant's election, at least six weeks before the hearing of said case, and said case may be heard and determined at any time after the expiration of six weeks from the time of personal service, or after the first publication as provided in this section.

SEC. 20. That before or upon hearing of the complaint, the court shall permit the accused to appear in person or by counsel, and make defense.

Accused may appear in person or by counsel.

SEC. 21. That if, upon the trial, the jury find the defendant guilty, or such accused person, before the trial, shall, in person or by counsel, confess in court that the accusation is true, he shall thereupon be adjudged the reputed father of such child, and shall stand charged with the maintenance thereof in such sum or sums as the court may order and decree, together with costs of prosecution.

Judgment on confession.

SEC. 22. The court shall thereupon order and decree, that unless the defendant shall, within a day to be fixed by said court, pay such sum or sums, with costs of prosecution, so much of the property remaining in the hands of the officer after applying the money arising from the sale of perishable property, and so much of the personal property and lands and tenements, if any, as may be necessary to satisfy said order and decree, shall be sold under the same restrictions and regulations as if the same had been levied on by execution; and the money arising therefrom, with the amount that may be recovered from the garnishee, shall be subject to the order and control of the court, and be applied to satisfy said order and decree in such sums and at such times as the court may order and direct. If there be not enough to satisfy the same, the order and decree of the court shall stand, and execution may issue thereon for the residue, in all respects as in judgments at law. Any surplus of attached property or its proceeds shall be returned to the defendant.

Property to be sold in default of payment.

SEC. 23. The provisions of this act, and all the remedies herein allowed, shall be applied to all cases which the infirmity directors or trustees of townships are by law authorized to commence or prosecute against the alleged father of any illegitimate child.

Provisions of this act, when applicable.

SEC. 24. That the act entitled "an act for the maintenance and support of illegitimate children," together with all acts amendatory and supplemental thereto, be and the same are hereby repealed.

Acts repealed

SEC. 25. This act shall take affect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 3, 1873.

## AN ACT

To amend section one of an act entitled an act for the protection of Fish in the rivers, streams, creeks, lakes, ponds and reservoirs of this state, passed March 18, 1871. (Vol. 68, O. L., page 41.)

*Amend.*  
*July 22, 1876*  
 Unlawful  
 modes of  
 catching fish  
 in certain  
 waters of the  
 state.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section one of the above recited act be amended so as to read as follows:

Section 1. That it shall be unlawful for any person or persons to shoot fish, or put in, keep up, draw or use any fish net, fish seine or fish pound for the purpose of catching fish in any of the rivers, creeks or streams within this state at any point or place therein above the common level at high or back water of Lake Erie and the Ohio river, or in the waters of any lake, pond or reservoir having a surface not exceeding eighteen thousand nor less than ten acres lying wholly within this state, whether the same be a natural or artificial lake, pond or reservoir, except as provided in section four of this act.

SEC. 2. That original section one of the above recited act be and the same is hereby repealed.

SEC. 3. This act shall take effect from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 9, 1873.

## AN ACT

Relative to the Steam Fire Department of certain cities.

Working of  
 fire depart-  
 ments in cer-  
 tain cities.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the council of any city of the second class having a population at the last Federal census not exceeding 6,400 nor less than 6,300, be and the same is hereby authorized to provide, by ordinance, for the working of the employes and teams of the steam fire department of such city, where such department exists therein, under such control and regulations as said council may so provide.

SEC. 2. That this act shall take effect on its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 9, 1873.

## AN ACT

Supplementary to an act to enable cities of the first class to aid and promote Education, passed April 16, 1870. (O. L., vol. 67, page 86, &c.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the above named act shall be applicable to cities of the first class, with less than ninety thousand and more than thirty-one thousand five hundred inhabitants by the last Federal census: Provided, that in such cities the number of directors shall consist of thirteen; and, provided, that the rate of taxation to be assessed and levied on the taxable property of said city shall not exceed one-half of one mill on the dollar valuation thereof, to be applied by said board of trustees to the support of such university, college, or institution of learning.

Relative to  
education in  
certain cities.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 9, 1873.

## AN ACT

Relating to the State Library.

WHEREAS, The accumulation of books in the state library makes it necessary that arrangements should be made for the completion of the state library, and the erection of the second and third stories or tiers of cases and shelving as originally contemplated; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the commissioners of the state library are hereby authorized to proceed to finish the second and third stories or tier of wooden alcoves and book cases in said library room, as originally contemplated, at a cost not to exceed twelve thousand dollars.

Finishing  
second and  
third stories  
of state library.

SEC. 2. The said commissioners shall have power to proceed and complete the entire second and third stories, and contract the purchase of material and performance of the work specified: Provided, that the work shall be let to the lowest and best bidder; and that notice shall be given for bids for the same in three daily newspapers, published, one in Cincinnati, one in Columbus, and one in Cleveland, weekly, for three consecutive weeks immediately preceding the letting of said work.

Power and  
duties of  
commission-  
ers of library.

SEC. 3. This act shall take effect on and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 9, 1873.

## AN ACT

Supplementary to an act entitled an act authorizing County Commissioners to levy a tax for road purposes in certain cases, passed and took effect April 30, 1869. (O. L., vol. 66, page 60.)

Use of funds  
for road pur-  
poses in cer-  
tain cases.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That all moneys assessed and collected by the commissioners of any county in the state, as authorized by the above named act, and remaining in the hands of the county treasurer, unexpended and unappropriated, for a period of six months after the annual September settlement for the fiscal year during which said road tax was collected, shall be paid over to the treasurer of the township or municipal corporation from which the same were collected, and shall be expended on the public roads, under the direction of the trustees of the proper township or municipal corporation, in such manner as may seem to them most advantageous to the interest of said township or corporation, for the construction, reconstruction, or repair of roads, and in building or repairing bridges.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 9, 1873.

## AN ACT

To amend an act entitled "An act to regulate Insurance Companies doing an insurance business in the State of Ohio." (O. S. L., volume 69, p. 150, chapter 2.)

Amount of  
capital re-  
quisite for  
organization  
of insurance  
company.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That sections seven and seventeen of chapter two of the above recited act be amended so as to read as follows:

Section 7. No life insurance company shall be organized under this chapter with a less capital than one hundred thousand dollars. The whole capital of such company shall, before proceeding to business, be paid in and invested in treasury notes, or in stocks of the United States, or in stocks of the state of Ohio, or in mortgages on unincumbered real estate within the state of Ohio, worth double the amount loaned thereon, exclusive of buildings.

Section 17. It shall be the duty of the president or vice-president, and secretary or actuary, or a majority of the trustees or directors of each life insurance company organized under the laws of this state, annually, on the first day of January, or within sixty days thereafter, to prepare, under oath, and deposit in the office of the superintendent of insurance, a statement showing the condition of the company on the thirty-first day of December then next preceding, exhibiting the following facts and items, in the following form, to wit: First—The number of policies issued during the year. Second—The amount of insurance effected thereby. Third—Amount of premiums received during the year. Fourth—Amount of interest and all other receipts, specifying the items. Fifth—Amount of losses paid during the year. Sixth—Amount of losses unpaid. Seventh—Amount of expenses. Eighth—Whole number of policies in force. Ninth—Amount insured thereby. Tenth—Amount required to reinsure all policies in force, estimating the same by the table known as the American experience tables, with interest at four and one-half per cent. per annum; also, amounts of all other liabilities. Eleventh—Amount of capital stock, specifying amount paid and unpaid. Twelfth—Amount of assets, and manner in which they are invested, specifying what amount in real estate, on bonds and mortgages, stocks, loans on stocks, premium notes, credits or other securities. Thirteenth—Amount of dividends unpaid. Fourteenth—An exhibit of the policy obligations of the company, as follows: With the first annual statement required under the provisions of this chapter, there shall be prepared and deposited, a schedule showing the number, date, age, when insured, amount insured, term of policy, and term of premium of all policies then in force, and with every succeeding annual statement a schedule of the foregoing items as to all policies issued during the year, and a similar schedule as to policies which shall have ceased to be in force during the year.

Annual  
statement,  
and its con-  
tents.

SEC. 2. That original sections seven (7) and seventeen (17) of the above recited act be and the same are hereby repealed.

SEC. 3. This act shall be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 9, 1873.

## AN ACT

To amend section two (2) of an act entitled "An act supplemental to an act entitled an act limiting the compensation of certain officers therein named, passed April 6, 1870." (O. L., vol. 67, p. 36,) passed April 12, 1871; (O. L., vol. 68, p. 58.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section two (2) of an act entitled an act supplemental to an act entitled an act limiting the compensation of certain officers therein named, passed April 12, 1871, be amended so as to read as follows:

Duties devolving on prosecuting attorneys.

Section 2. The prosecuting attorney of the county in every county of the state in which this act takes effect shall perform all the duties devolving on the commissioner of costs and fees, and see that the provisions of the act to which this is supplementary are faithfully executed by the officers named in the first section of said act, and for this purpose he shall have general supervision of the matter of the collecting and reporting of the fees, costs, percentages, penalties, allowances and other perquisites by the officers aforesaid; and all accounts and reports of receipts and expenditures required of said officers by the provisions of said act shall be in such form as he may prescribe, and the same shall be first examined and approved by him as correct before they shall be audited as correct by the county commissioners. All the official accounts and fee books of said officers, and the minutes and records of the proceedings of the county commissioners, shall be open to his inspection at all times, and he shall have power to subpoena witnesses and coerce their attendance in matters of investigations pending before him, as is now by law conferred on justices of the peace. It shall be his further duty to make an annual report to the county commissioners at their first regular meeting in June of each year, in which report he shall give full statistics relating to the offices named in the first section of the act to which this is supplemental, showing the gross receipts of costs, fees, percentages, etc., expenditures on various accounts, names and compensation of all deputies, clerks, book-keepers and other assistants employed by them, together with any recommendations and suggestions he may have to make in regard to any change which he may think worthy of consideration by the commissioners. For the services thus to be performed under the provisions of this act the prosecuting attorney shall receive the sum of five hundred dollars, payable annually out of the county treasury on the warrant of the county auditor from the fee fund arising from the fees, costs, percentages, allowances and penalties of the offices named in the first section of the act to which this is supplemental: Provided, that the salaries of the officers named in said first section, and the compensation of all deputies, clerks, book-keepers and other assistants, and all official expenses of said offices shall be first paid from said fund;

Annual report to be made.

Compensation for services.



and; provided further, that nothing in this act shall be so construed as to make the county or county commissioners liable to any such prosecuting attorney for the payment of such salary or compensation, except out of the fees, costs, percentages and penalties collected of the officers, as aforesaid.

SEC. 2. That the second section of the act entitled an act supplemental to an act entitled an act limiting the compensation of certain officers therein named, passed April 12, 1871, (O. L., vol. 68, p. 58,) be and the same is hereby repealed. Repeal.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 10, 1873.

## AN ACT

Relating to the duties of the Secretary of State and the  
Comptroller of the Treasury.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That annually, hereafter, on or before the first day of August, it shall be the duty of the secretary of state to ascertain and fix the amount and grades of all paper necessary for the printing of both branches of the general assembly and the state officers, and other public printing, for the period of one year from the first day of November.

Secretary of state to fix amount and grades of paper required.

SEC. 2. That whenever the amount and grades of paper shall be ascertained and fixed as aforesaid, it shall be the duty of the secretary of state to give notice weekly, for four consecutive weeks, in three daily newspapers printed in and of general circulation in this state, immediately preceding the first Monday of September, setting forth that sealed proposals will be received at the office of the secretary of state, until twelve o'clock at noon on the first Monday of September following, for furnishing such paper, and it shall be the duty of the secretary of state (on application being made) to furnish samples of the grades of paper to be bid for.

Notice for proposals to be given, and samples to be furnished.

SEC. 3. That said proposals shall contain the price bid on each sample as furnished by the secretary of state, and on said first Monday of September said proposals shall be opened by said secretary, and the contract be by him awarded to the lowest bidder or bidders: Provided, that if, in the opinion of said secretary of state, it will be better to divide said contract and let a portion to one or more bidders, and the remaining portion to another bidder or bidders, he shall be permitted to do so.

Contents of proposals.

Bond to accompany proposals.

SEC. 4. Each proposal shall be accompanied by a bond, executed in due form by the bidder, with at least two good and sufficient sureties, satisfactory to the secretary of state, in the penal sum of forty thousand dollars, conditioned for the faithful performance, pursuant to this act, of such contract or contracts as may be adjudged by him, and for the payment, as liquidated damages, by such bidder, to the state, of any excess of cost over the bid or bids of such bidder which the state may be obliged to pay for such paper by reason of the failure of such bidder to complete his contract; said bond to be null and void if no contract shall be awarded to him. No bid unaccompanied by such bond shall be entertained by the secretary of state.

Bond to be filed, and penalty of forfeiture.

SEC. 5. That the bond or bonds on which said contract or contracts are awarded, shall be filed and retained in the office of the secretary of state, and for any failure to comply with any of the conditions in the contract contained, the contractor or contractors may be prosecuted in the name of the state, on their bond, in any court of competent jurisdiction, and the amount of damages, when collected, shall be paid into the state treasury; and every person or persons to whom contracts shall have been awarded, and who shall neglect or refuse to comply with the conditions of his or their contract, shall forfeit and pay for every such neglect or refusal any sum not less than fifty nor more than five hundred dollars, to be recovered in the name and for the use of the state. That if such contractor or contractors shall fail to furnish the paper according to the terms of the contract awarded to him or them, the secretary of state shall advertise and relet the contract for furnishing the same, and may purchase the paper necessary for the use of the state until the contract is let.

Secretary to purchase stationery, &c.

SEC. 6. That annually hereafter, on or before the first day of November, the secretary of state shall purchase and cause to be delivered at his office, so much and such kinds of stationery and other articles as may be necessary for the use of the general assembly, the offices of the governor, secretary of state, auditor of state, treasurer of state, attorney general, state librarian, supreme court, and others entitled to the same; and no person other than the secretary of state shall purchase any article for the use of the general assembly, or either branch thereof, unless directed so to do by joint resolution; the amount that may be necessary for the purchase of such stationery and other articles to be drawn upon the order of the secretary of state, and the same shall be allowed by the auditor of state, and paid on his warrant by the treasurer of state.

Receipts to be taken for stationery furnished, and statements reported.

SEC. 7. That the secretary of state, when he delivers to the sergeant-at-arms of either branch of the general assembly, or other officer entitled by law to receive the same, any stationery, books, blank books or other articles, shall take a receipt therefor, stating the amount and value thereof, and shall, in his annual report, give a statement of each class of stationery, blank books and other articles so delivered, the

amount and value thereof, and to whom delivered. The statement shall also contain a statement of the amount of stationery, blank books and other articles on hand in his office on the 15th day of November, when his annual report is made out, and the amount and value of each class of stationery, blank books and other articles received by him in the preceding year, together with the name of the person or persons from whom they were received.

SEC. 8. Annually, hereafter, on or before the first day of May, it shall be the duty of the comptroller of the treasury, or other officer having control of the state house and grounds, to ascertain and fix the amount and kinds of fuel necessary for heating the state house for the period of one year from the first day of June following; and that, when the amount and kinds of fuel are ascertained and fixed as aforesaid, the comptroller of the treasury, or other officer having control of the state house and grounds, shall advertise and contract for the same as and under all the restrictions the secretary of state is herein directed to advertise and contract for paper for the state.

Comptroller  
to fix amount  
and purchase  
fuel, &c.

SEC. 9. That the act entitled "An act to provide for the purchase of stationery, fuel and other articles for the use of the general assembly and state officers," passed March 11, 1863, (S. & C., 1393,) be and the same is hereby repealed.

Repeal.

SEC. 10. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 10, 1873.

## AN ACT

Amendatory of and supplementary to the act entitled  
"An act for the punishment of certain offenses therein  
named," passed March 8, 1831.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section forty-three of the above entitled act be so amended as to read as follows:

Section 43. That if any person shall publicly or privately open, set on foot, carry on, promote, make, draw, or act as "backer" or "vendor" for or on account of any lottery, "policy" or scheme of chance of any kind or description, by whatever name, style or title the same may be denominated or known, or wherever located; or if any person shall, by any of the means aforesaid, expose, or set to sale, any house, lands or real estate, or any goods or chattels, cash, or written evidences of debt, or certificate of claims, or anything of value whatever, every such person so offending shall, on conviction

Participation  
in any  
scheme of  
chance for-  
bidden; pen-  
alty therefor.

thereof, be fined in any sum not less than fifty nor more than five hundred dollars, and be imprisoned in the county jail not less than ten nor more than ninety days, at the discretion of the court.

Who entitled  
to right of  
action, &c.

SEC. 2. That any person expending any money or thing of value, or incurring any obligation for the purchase or procuring of any lottery, or "policy" ticket, hazard or chance, or any interest therein, in or on account of any lottery, "policy" or scheme of chance as aforesaid, or any one dependent in any degree for support upon, or entitled to the earnings of such person, or any citizen for the use of such one, shall have a right of action in his or her own name, jointly or severally, against the person receiving such money, thing of value or obligation, and all persons whomsoever, having any interest, direct or contingent, as "backers," "vendors" or otherwise, in such receipt or transaction, or the profits or possible profits thereof, for the recovery of the amount of value of such money, thing of value or obligation, together with exemplary damages, which in no case shall be less than fifty nor more than five hundred dollars. Suits may be commenced under this act by attachment, and where the amount recovered in a court of record is one hundred dollars, or less, the plaintiff shall recover costs as in other cases.

Personal  
property lia-  
ble for fines,  
&c.

Also, real  
estate used.

SEC. 3. That for the payment of all fines and judgments assessed or obtained under this act against any person or persons, the personal property of every kind, without exemption, of such person or persons shall be liable; and all real estate leased, or permitted and suffered by the owner to be used and occupied, in whole or in part, for the promotion or carrying on in any manner whatever of any lottery, "policy," or scheme of chance, as aforesaid, shall be liable for all fines and judgments assessed or obtained under this act against the owner or lessee thereof; and such fines and judgments shall operate as and be a lien thereon; and a violation by the lessee of any provision of this act upon any real estate, or within any building thereon, hereafter leased, shall work a forfeiture absolutely of such lease, and entitle the lessor to take immediate possession: Provided, if such real estate and building, or either of them, belong to any minor, insane person, or idiot, the guardian or guardians of such minor or minors, or insane person or idiot, who has control of such real estate and building, or either of them, knowingly permitting said real estate or building to be used for the purpose aforesaid, shall be liable for and account to such ward or wards, insane person or idiot, for all damage in consequence of the use and occupation of such real estate and building, and liabilities for such fines, damages and costs, as aforesaid.

When guar-  
dians liable.

SEC. 4. That said original section forty-three is hereby repealed, and this act shall take effect on its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed April 11, 1873.

## AN ACT

To provide for the election of directors for colleges and other institutions of learning.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That at a regular meeting for the election of directors or trustees in any college or other institution of learning, the authorized voters may determine by vote whether the election of directors or trustees shall be held annually, when the term of their election is for a longer period than one year; and, also, what proportion of the entire board shall be elected annually. At the first election held under the provisions of this act, the voters shall designate upon their ballots who shall serve for one year, who for two years, and who for three years. Vacancies caused by expiration of term of office shall be filled by election annually thereafter.

Election of directors or trustees of colleges, &c.

SEC. 2. This act to take effect on its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 11, 1873.

## AN ACT

To amend "An act supplementary to an act to provide for the creation and regulation of Incorporated Companies in the state of Ohio," passed May 1, 1862, (L., 1852; S. & C., 271; Swan's R. S., 197; S. & S., 237.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That any company which has been heretofore or may hereafter be incorporated under the general laws of this state for printing and publishing a newspaper, may increase its capital stock, as provided in an act entitled "An act supplementary to an act to provide for the creation and regulation of incorporated companies in the state of Ohio," passed April 12, 1865, and shall be governed in all respects by the provisions of said act and the acts supplementary and amendatory thereto.

Increase of capital stock of printing and publishing companies.

SEC. 2. That this act shall take effect on its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 12, 1873.

## AN ACT

Supplementary to an act entitled "An act relating to Ditches," passed April 12th, 1871. (O. L., volume 68, page 60.)

Authority  
to alter, nar-  
row or widen  
ditches, &c.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the commissioners of any county in this state shall have power at any regular or called session, when the same will be conducive to the public health, convenience or welfare, in cases where any ditch, drain or water course has been established, constructed, or partially constructed, under the provisions of the act to which this is supplemental, or under any former act repealed by this act, to cause the same to be changed or altered, or narrowed or widened, as hereafter provided.

Power of  
commission-  
ers on peti-  
tion for alter-  
ation, &c.

SEC. 2. That whenever one or more persons, who have been assessed for the construction of any ditch, drain or water course, as above referred to, shall file a petition with the county auditor for the alteration, changing, narrowing or widening of any such ditch, drain or water course, specifying the place of beginning and termination of the portion of ditch proposed to be altered, and setting forth that the same will better effect the object sought by the said ditch, drain or water course, and shall also file a bond with sureties to the acceptance of said auditor, conditioned to pay all the costs and expenses incurred in case the commissioners shall refuse to grant the prayer of the petitioners, the commissioners shall have the same power to cause said ditch, drain or water course to be altered, as they have to order the same located or constructed, and the same proceedings shall be required in both cases, and the costs and the expenses shall be assessed and allowed in accordance with the act to which this is supplemental.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 12, 1873.

## AN ACT

To amend sections 539 and 583 of an act entitled "An act to provide for the organization and government of Municipal Corporations," passed May 7, 1869, as amended March 29, 1872.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That sections 539 and 583 of the above recited act, as amended March 29, 1872, be so amended as to read as follows:

Section 539. For the payment of the costs of the following improvements, including the necessary real estate, the council shall levy and assess a tax upon the general duplicate of all the real and personal property subject to taxation within the limits of the corporation, which levy and assessment shall be by the clerk of the corporation certified to the auditor of the county, and by the auditor charged in the duplicate against such taxable property, and collected as other taxes; that is to say, for public halls and necessary offices, for structures for the fire department, for water-works, market-houses and spaces, cemeteries, parks, infirmaries, hospitals, gas works, prisons, houses of refuge and correction, work-houses, public privies and urinals, the land appropriated for rights of way, wharves and landings on navigable waters, levees and embankments: Provided, that where the council of any municipal corporation shall appropriate any lots or lands for the purpose of laying off, opening, extending, straightening or widening any street, alley or public highway, it shall have power to assess the costs and expense of such appropriation and improvement upon the lots or lands benefited thereby, including lots and lands that are contiguous and adjacent, as well as those that abut upon said street, alley or highway, or upon the general duplicate of all the real and personal property subject to taxation within the limits of the corporation, as provided in section 583; Provided, further, that in cities where a platting commission shall have been appointed under an act entitled "An act to regulate the platting of lands and laying out of streets in municipal corporations," passed March 13, 1871, and such commission shall have platted streets agreeably to the provisions of said act, and the owner or owners of any portion of the grounds so platted shall have accepted such platting agreeably to the provisions of the second section of said act, then the property abutting upon any street or streets so platted and dedicated shall not be assessed to pay for the extension of such street or opening the same through other lands so platted but not dedicated.

Levy of tax  
for improve-  
ments.

Assessment  
on contig-  
uous and ad-  
jacent lots,  
&c.

Proviso as to  
platted  
lands, &c.

Section 583. Whenever it shall be deemed necessary by the council of any municipal corporation to open, extend, straighten or widen any street, alley or public highway, within the limits of such corporation, the council of such corporation shall provide by ordinance for the same; and such ordinance shall briefly, and in general terms, describe the property sought to be appropriated for the purposes aforesaid. The proceeding for such appropriation shall be as in such cases provided for in an act entitled "An act to provide for the organization and government of municipal corporations," passed May 7, 1869, and as amended April 8, 1870. The assessments made for the purpose of paying the cost and expense of opening, extending, widening or straightening such street, alley or highway, shall be made and approved in accordance with the provisions of sections 577, 578, 582, 584, 585, 586, 587, 588 and 589, and subject to the limitations contained in section 543 (as amended May 2, 1871) of an act en-

Improve-  
ments, &c.,  
provided for  
by ordinance.

Assessme  
for costs.

titled "An act to provide for the organization and government of municipal corporations," passed May 7, 1869, to which act this is amendatory.

SEC. 2. That said original sections 539 and 583, as amended March 29, 1872, be and the same are hereby repealed.

SEC. 3. That this act shall be in force from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed April 12, 1873.

## AN ACT

Supplementary to an act passed April 3d, 1868 (65 O. L., 55; S. & S., 202), entitled an act supplementary to an act entitled an act to provide for the creation and regulation of Incorporated Companies in the State of Ohio, passed May 1st, 1852.

Authority to  
borrow additional  
sums  
for bridge  
purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That any corporation heretofore or hereafter organized to construct a bridge across the Ohio river, under the provisions of the act to which this is supplementary, which has contracted or may contract an indebtedness in the course of the construction of its bridge, or may desire to obtain means for its repair, alteration or improvement, in addition to the powers granted in the act to which this is supplementary, is hereby authorized, for the purpose of liquidating such indebtedness contracted according to law, or obtaining such further means, to borrow the additional required sum or sums of money, upon the credit of the corporation, and execute coupon bonds or other evidences of indebtedness therefor, and secure the payment of the same by an additional mortgage or mortgages upon the property, rights, income and franchises of the corporation, upon the terms and conditions and with the effect prescribed in the eighth section of the act to which this is supplementary; and such company, for either or all of the purposes aforesaid, is hereby also authorized to increase its capital stock in such amount or amounts as may be authorized by the existing stockholders as hereinafter provided, and to make the same a preferred stock, guaranteeing to the holders thereof dividends out of the net earnings and income of the company to be first paid before any dividends on its common stock, at such rate as may be fixed in the creation thereof, not exceeding eight per cent. per annum, payable quarterly, and the same to issue and dispose of at such rates and on such terms as the said company may deem expedient: Provided, however, that it shall not be lawful to exercise any power or

And to in-  
crease capi-  
tal stock.



authority conferred by this act, until the same is consented to in writing by stockholders owning two-thirds in amount of the existing capital stock, or by a vote in favor thereof of a like interest, at a regular meeting of the stockholders, or a special meeting of the stockholders, or a special meeting called for the purpose, upon public notice for thirty days; and, provided also, that in case of an increase of capital stock under the provisions of this act, the creation of the same shall not be deemed complete until a certificate, setting forth the amount of said increase and the terms and conditions on which the same is to be issued, and the amount of the previously existing capital stock, and the written assent or vote of the stockholders as herein required, signed by the president of the company, and attested by its corporate seal, shall have been first filed in the office of the secretary of state.

On consent  
of two-thirds  
of stockhold-  
ers.

SEC. 2. This act shall take effect on its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 12, 1873.

## AN ACT

To amend section twenty-four of an act entitled "An act to provide for the creation and regulation of incorporated companies in the State of Ohio, passed May 1st, 1852," (S. & C., page 271.) and supplementary to said act.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section twenty-four of the above entitled act be so amended as to read as follows:

Section 24. Any railroad company heretofore or hereafter incorporated, may at any time, by means of subscription to the capital stock of any other company or otherwise, aid such company in the construction of its railroad for the purpose of forming a connection of said last mentioned road with the road owned by the company furnishing said aid, where the road of the company so to be aided does not form a competing line; or any railroad company organized in pursuance of law may lease or purchase any part or all of any railroad constructed by any other company, if said companies' lines of said road are continuous or connected, and not competing, as aforesaid, upon such terms and conditions as may be agreed upon between said companies respectively, or any two or more railroad companies whose lines are so connected, and not competing, may enter into any arrangement for their common benefit, consistent with and calculated

How railroad  
companies  
may aid each  
other.

Proviso.

to promote the objects for which they were created: Provided, that no such aid shall be furnished, nor any purchase, lease or arrangement perfected until a meeting of the stockholders of each of said companies shall have been called for that purpose by the directors thereof, on thirty days' notice to each stockholder, at such time and place and in such manner as is provided for the annual meetings of said companies, and the holders of at least two-thirds of the stock of each company, in person or by proxy, shall have at such meeting assented thereto; and provided, that in case of the lease of any railroad situate in whole or in part within this state, the rental reserved and secured for said leased road shall be equal at least to the net earnings of such leased road for the fiscal year next preceding the one in which said lease is made.

Rights of stockholders refusing assent to lease; arbitration, &c.

SEC. 2. Any stockholder who shall refuse his assent to said lease, and signify the same by notice in writing to the lessee or lessees within sixty days thereafter, shall be entitled to demand and receive from such lessee or lessees previous to such lease, purchase or arrangement being consummated, the average market value of his stock for six months next preceding the day of the meeting of the companies, at which said lease is approved as aforesaid on the surrender of his stock. If the stockholder and the lessee cannot agree as to the value of the stock, it shall be lawful for the parties to submit the question to arbitration, which arbitration shall be conducted in accordance with the provisions of the law in force regulating arbitrations, (so far as the same may be applicable,) by three disinterested persons to be appointed upon the motion of either of the parties by the judge of the court of common pleas of the county in which the person owning the stock shall reside, or in case he be a non-resident of the state, or of any county through which said road shall pass, then in the county in which the principal office of the company shall be kept; and if any such stockholder shall refuse to submit the question to arbitration, the proper judge shall, upon the application of any director of either of the companies to the contract, appoint the arbitrators, who shall proceed to ascertain the value of the stock in the same manner as if the question had been submitted by consent of both parties; and if the party owning the stock shall refuse to receive the amount so awarded in any case provided for in this section, it shall be lawful for the company to deposit the same with the clerk of the court of common pleas of the county in which the arbitration shall be held, which deposit shall operate the same as if payment was made to the owner of the stock.

Notice of desire to arbitrate.

SEC. 3. In all cases of arbitration under the provisions of the foregoing section, it shall be the duty of the party desiring such arbitration to give the opposite party at least ten days' notice of his intention to apply to the judge for the appointment of the arbitrators, which notice shall be served in the same manner as is provided for the service of a summons, and shall specify the time and place of the hearing of

such motion: Provided, that in cases of non-residents the notice shall be by publication made in the same manner and for the same time provided for by the code of civil procedure.

SEC. 4. No railroad company in this state shall lease the road of said company to any other railroad company unless the lessor shall require and receive full and adequate security for the payment of the rental, and for the preservation of the property of said lessor in as good condition as on entering into possession.

Security for  
rental re-  
quired.

SEC. 5. That every corporation of this state created before the adoption of the present constitution, which shall take any action under, or in pursuance of, any of the provisions of this act, shall thereafter and thereby be deemed to have consented, and shall be held to be, and to have and exercise, all and singular its franchises as a corporation, under and by virtue of the present constitution, and laws passed in pursuance thereof, of the state, and not otherwise.

Corporations  
under old  
constitution.

SEC. 6. That original section twenty-four is hereby repealed, and this act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 15, 1873.

## AN ACT

To incorporate Humane Societies, and supplementary to the act to "Prevent cruelty to animals," passed April 4, 1871. (O. L., page 54.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That for the purpose of enforcing the laws of this state to prevent cruelty to animals, any number of persons, not less than five, residents of this state, may associate themselves together and become a body corporate, in the manner provided by sections sixty-six, sixty-seven, sixty-eight, sixty-nine and seventy of an act entitled "An act to provide for the creation and regulation of incorporated companies in the state of Ohio," passed May 1, 1852, and the acts amendatory of said original sections, passed March 14, 1859, passed January 26, 1865. (S. & S., 239.)

Incorporations author-  
ized to pre-  
vent cruelty  
to animals.

SEC. 2. They shall have power to enforce the provisions of the act entitled "An act to prevent cruelty to animals," passed April 4, 1871, and all other acts relating to the same subject, and they shall have the power to establish branches, or auxiliary societies, in any part of this state.

Powers  
thereof.

SEC. 3. The capital stock of such corporation shall consist of not less than five thousand dollars, and shall be divided into shares of fifty dollars each, and at least fifty per cent. of such stock shall be taken before such corporation shall com-

Capital  
stock.

mence business, and at least ten per cent. of the stock so taken shall be paid before any business shall be done by such corporation, and each stockholder shall be liable over and above the stock by him or her owned, and any amount paid thereon, to a further sum equal in amount to such stock.

Sheriffs, constables, &c., required to render service.

SEC. 4. They shall have power to require the sheriff of every county, the constable of any township, and the marshal or policemen of any city or incorporated village of this state, when the laws for the prevention of cruelty to animals have been violated, to take possession of any animal or animals cruelly treated, contrary to law, in their respective counties, townships, cities or incorporated villages, and deliver the same to the proper officers of such corporation; and for such services the officers shall be allowed and paid by such corporation such fees as they are allowed for like services in other cases; which fees, so paid by such corporation, shall be charged and collected as a part of the costs in cases where any person shall be convicted of a violation of such laws, and shall be paid over to such corporation.

Annual publication of statement.

SEC. 5. They shall publish in at least one newspaper of general circulation in this state a detailed statement of their operations, at least once in twelve months.

SEC. 6. This act to take effect on its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 15, 1873.

## AN ACT

To exempt specific articles of personal property from execution.

List of property exempt from execution.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That every person who has a family, and every widow, shall hold the following property exempt from execution or sale for any debt, damages, fine or amercement, to wit:

First—The wearing apparel of such person or family; the beds, bedsteads and bedding necessary for the use of the same; one cooking stove and pipe; one stove and pipe used for warming the dwelling, together with an amount of fuel sufficient for the period of sixty days, actually provided and designed for the use of such person or family.

Second—One cow, or, if the debtor own no cow, household furniture, to be selected by him, not exceeding thirty-five dollars in value; two swine, or the pork thereof, or, if the debtor own no swine, household furniture, to be selected by him or her, not exceeding fifteen dollars in value; six sheep, the wool shorn from them and the cloth or other articles manufactured therefrom, or, in lieu thereof, household furniture, to be selected by the debtor, not exceeding fifteen

dollars in value, and sufficient food for such animals, when owned by the debtor, for the period of sixty days.

Third—The Bibles, hymn books, psalm books, testaments and school books used in the family, and all family pictures.

Fourth—An amount of provision actually provided and designed for the use of such person or family, not exceeding fifty dollars, to be selected by the debtor; and such other articles of household and kitchen furniture, or either, necessary for such person or persons, to be selected by the debtor, not exceeding fifty dollars in value.

Fifth—One sewing machine; one knitting machine; the tools and implements of the debtor necessary for carrying on his or her trade or business, whether mechanical or agricultural, to be selected by him or her, not exceeding one hundred dollars in value.

Sixth—The personal earnings of the debtor, and the personal earnings of his or her minor child or children, for any time not exceeding three months previous to the rendition of the judgment or the assessment of the fine or amercement upon which execution is issued, when it shall be made to appear, by the affidavit of the debtor or otherwise, that such earnings are necessary to the support of such debtor or of his or her family.

Seventh—All articles, specimens and cabinets of natural history or science, whether animal, vegetable or mineral, except such as may be kept or intended for show or exhibition for money or pecuniary gain.

SEC. 2. Every person, being the head of a family, who shall be engaged in the business of draying for a livelihood, shall, in addition to the foregoing exemptions, hold one horse, harness and dray exempt from execution; and every such person who shall be engaged in the business of agriculture shall, in addition to the exemptions provided for in the first section of this act, hold exempt from execution one horse or one yoke of cattle, with the necessary gearing for the same, and one wagon; and any such person being engaged in the practice of medicine shall, in addition to the said exemptions in said first section, hold one horse, one saddle and bridle, and books, medicines and instruments, pertaining to his profession, not exceeding one hundred dollars in value, exempt from execution.

Special exemptions of draymen, physicians, &c.

SEC. 3. In all cases where it is necessary to ascertain the amount or value of property exempt under this act, the same shall be estimated and appraised by two disinterested householders of the county, to be selected by the officers holding the execution.

Appraisal of exempted property.

SEC. 4. That an act entitled "An act to regulate judgments and executions at law," passed March 1, 1831, passed March 9, 1840; an act entitled "An act explanatory of the fifth clause of the first section of the act entitled 'an act to amend an act entitled an act to regulate judgments and executions at law,'" passed March 9, 1840, passed March 4, 1844; an act entitled "An act to amend the several acts now in force regulating judgments and executions," passed February 18, 1848; an act entitled "An act to exempt from levy and sale upon

Acts repealed.

execution certain articles therein named ;" an act entitled "An act to exempt from levy and sale upon execution a certain article therein named," passed March 20, 1867; and an act entitled "An act to exempt personal earnings from application to the payment of debts in certain cases," passed May 8, 1868, be and the same hereby are repealed.

SEC. 5. This act shall take effect from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 16, 1873.

## AN ACT

To amend section two of an act entitled "An act for opening and regulating Roads and Highways," passed January 27th, 1853, as amended April 5th, 1856. (S. & C., page 1290.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section two of the above recited act be amended so as to read as follows :

Petitions for  
 laying out,  
 altering or  
 vacating  
 county  
 roads.

Bond, its col-  
 lection, etc.

Section 2. That all applications for laying out, altering or vacating any county road, or for altering or vacating any state road within the county, shall be by petition to the county commissioners, signed by at least twelve freeholders of the county residing in the vicinity where said road is to be laid out, viewed or reviewed, altered or vacated, and one or more of the signers to any petition presented as aforesaid, shall enter into bond with sufficient security, payable to the state of Ohio, for the use of the county, conditioned that the person or persons making such application shall pay into the treasury of the county the amount of all costs and expenses accruing thereon in case the said application shall fail, and in case the said application shall not fail, the commissioners may, in their discretion, order the said petitioners to pay any or all costs and expenses of such application, or may pay all or any portion thereof out of the county treasury; and in every case where the commissioners shall make such an order, and the petitioners shall fail, neglect or refuse to pay the said costs and expenses, then the persons signing said bond shall be liable thereon for the full amount of all the costs and expenses of said application, and the auditor of the county shall deliver such bond to the prosecuting attorney, whose duty it shall be to collect and pay over the same to the county treasurer; and in all cases of contest the court having jurisdiction of the

case shall have full power to render judgment for costs according to justice between the parties.

SEC. 2. That original section two of the above recited act be and the same is hereby repealed.

SEC. 3. This act shall take effect from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 16, 1873.

## AN ACT

To amend section eleven of an act entitled "An act to amend sections one, two, four, five, six and eleven of an act entitled an act to authorize the County Commissioners to construct roads on petition of a majority of the resident land owners along and adjacent to the line of said road, and to repeal an act therein named," passed March 29, 1867, passed March 31, 1868. (S. & S., page 673.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section eleven of the above entitled act be amended so as to read as follows:

Section 11. The commissioners shall have power to receive subscription and donations in money or property, real or personal, which shall be applied to the construction or improvement of said road; and the commissioners shall have the power to contract for and purchase such stone, gravel or other material, as may be necessary for the construction and keeping in repair of said road; and if the commissioners and owner or owners of such stone, gravel or other material cannot agree on a price deemed fair and reasonable, the commissioners may apply to the judge of the probate court of the county, or if such stone, gravel or other material shall be located in another county than that in which the road is located, then the commissioners of the county in which the road is located shall apply to the judge of the probate court of the county in which such stone, gravel or other material is located, to appoint appraisers to assess the value of said stone, gravel or other material; and on the filing of such application, it shall be the duty of the probate judge before whom such application is filed to appoint three disinterested freeholders, who, after being duly sworn to impartially assess the value of the said stone, gravel or other material, or any part of the same, shall enter upon the premises of the owner or owners of said stone, gravel or other material, and assess the value thereof; they shall also assess the damages that will accrue to the owner or owners of said stone, gravel or other material by the removing of the same, through the premises of such owner or

How materials for road may be obtained.

Appeal from  
decision of  
appraisers.

owners; the appraisers shall, within ten days after their appointment, return their award to the probate court; the judge of the probate court shall, upon the return of said award, on application of the commissioners, furnish them a copy of said award; thereupon said commissioners may enter upon the lands either inclosed or uninclosed, and remove such stone, gravel or other material as may be required to make or improve such road. An appeal from the decision of the appraisers may be allowed to the court of common pleas, if taken within thirty days after the rendering of such award; but such appeal shall not prevent the immediate entry upon the premises by the commissioners, for the purpose of taking said stone, gravel or other material; and if the court of common pleas should render a judgment for not more than the appraisers' allowance, the appellant shall pay all the costs accruing from such appeal.

SEC. 2. Section eleven of the above recited act is hereby repealed.

SEC. 3. This act shall be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 16, 1873.

## AN ACT

### Relating to Township Cemeteries.

Tax au-  
thorized to  
purchase ad-  
ditional  
cemetery  
ground.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That in any township in this state in which there may be a cemetery owned, or partly owned by such township, if, in the opinion of the trustees of the township, it is desirable to add to the area of such cemetery by the purchase of additional grounds, they shall have authority for that purpose to levy a tax not to exceed one-half of one mill on the taxable property of said township, for a period not to exceed five years, which shall be collected as other taxes are, and appropriated to the purchase of such additional cemetery grounds, which shall become part of said township cemetery, to be governed in all respects as provided by law.

SEC. 2. That section two of an act passed April 17th, 1857, entitled "An act to regulate township and other cemeteries," (S. & C., vol., 1, p. 228,) be amended to read as follows:

Sale of lots,  
and deeds  
therefor.

Section 2. That it shall be lawful for the trustees of said township, for the purpose of grading, improving and embellishing said cemetery ground, after proper notice shall have been given, to proceed to sell in such manner and at such time and on such terms as in their judgment may be deemed



most advantageous, such number of lots as the public wants may demand; and purchasers of all lots so sold, shall, upon complying with the terms of sale, be entitled to receive a deed or deeds, which the trustees aforesaid are hereby authorized to execute, and which shall be recorded in a book provided for that purpose by the clerk of said township, the expense of recording to be paid by the person receiving said deed: Provided, that the township trustees shall, upon the application of the head of any family living in such township, make and deliver to such head of a family a deed for a suitable lot for the burial of his or her family without charge, if in the opinion of the trustees, by reason of the circumstances of such family, payment therefor would be heavy and oppressive.

SEC. 3.- That said section two of the act aforesaid be and the same is hereby repealed, and this act shall take effect on its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 17, 1873.

## AN ACT

To authorize companies incorporated for the construction of Hotels to issue preferred stock.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be lawful for any company heretofore incorporated and organized under any law of this state, for the purpose of erecting and constructing a hotel, or for any company which may hereafter be formed under the laws of this state for said purpose, upon a vote or written agreement to that effect of the owners of two-thirds of the stock previously subscribed and paid for, to increase its capital stock to any amount that may be deemed necessary for said purpose, not exceeding the sum of two hundred thousand dollars, to be divided into shares corresponding in amount with the shares previously subscribed; and such company is authorized to make such increased stock preferred stock, and to pledge the revenues and income of the company for the payment of the dividends thereon, to the extent and in the manner hereinafter provided.

Increase of  
capital stock  
authorized.

SEC. 2. That when any such company shall determine to issue such preferred stock, they shall give notice by publication in a newspaper of general circulation in the county where such hotel is located, of the opening of the books thereof for subscriptions to such stock, and the stockholders of said company shall have the privilege of subscribing for the said preferred stock, to the exclusion of others for fifteen

Notice of  
opening  
books for  
subscriptions.

days after the opening of the books, at the expiration of which period, if the board of directors deem it desirable, and if as much stock has not been subscribed as desired, then others may be allowed to subscribe for such stock.

Terms may  
be prescribed  
by company.

SEC. 3. Such company may prescribe such terms to the subscribers of the said increased or preferred stock, in regard to the payment for the same, as the interests of the company may require; and it may also declare forfeited any stock to the use of the company upon which any call shall remain due for thirty days after demand in person, or at the subscriber's residence or place of business, or by notice published one week in some newspaper of general circulation in the county in which such hotel is located.

Dividends  
on increased  
stock.

SEC. 4. That the preferred stock so subscribed for shall receive out of the net income of the company a dividend, payable semi-annually, of not exceeding eight per cent. per annum, or such less rate as may be fixed by the company at the time of subscribing for such stock: Provided, that no dividend shall be declared or paid on the non-preferred stock until the net income of the company shall pay said dividends on the preferred stock.

Subscribers  
entitled to  
certificates.

SEC. 5. That on the full payment of any subscription of such preferred stock, the subscriber shall be entitled to receive a certificate for the shares so taken and paid for, setting forth their character as preferred stock, and such stock shall be transferable and entitled to vote as other stock of such company.

Redemption  
of stock.

SEC. 6. That the company may make such preferred stock redeemable at par, at any time after five years, and may create a sinking fund for the payment of such preferred stock, and to that end may set apart such portion of its earnings as may by the board of directors be considered proper, and the fund thus created may be vested in such manner as the board of directors may deem most safe and lucrative.

SEC. 7. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed April 17, 1873.

## AN ACT

To amend section fifty-three of an act entitled "An act to establish a Code of Civil Procedure," passed March 11, 1858.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section fifty-three of an act entitled "An act to establish a code of civil procedure," passed March 11, 1853, be so amended as to read as follows:

*Amended -  
O.L. 73-120*

*do.*

Section 53. Every other action must be brought in the county in which the defendant, or some one of the defendants, resides, or may be summoned; except actions against executors, administrators and guardians, which may be brought in the county wherein such executors, administrators or guardians may have been appointed, or in the county where such defendant may reside, and summons in such cases may issue to any county in the state.

Where actions must be brought.

SEC. 2. That said original section fifty-three be and the same is hereby repealed, and this act shall take effect from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 18, 1873.

## AN ACT

Supplementary to "The act relating to cities of the first class having a population exceeding one hundred and fifty thousand inhabitants," passed May 4, A. D. 1869.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the respective holders of all the bonds authorized to be issued by the act to which this act is supplementary, are hereby declared to be entitled to hold, by way of mortgage, without any conveyance, the line of railway specified in the resolution of the city council and its appendages and the net income thereof, and all the estate, right, title and interest therein of the city and of the board of trustees of said line, until the respective sums mentioned in said bonds and the interest thereon shall be fully paid, without any preference one above another by reason of priority of date of any such bonds, or of the time when such holder became the owner of the same, or otherwise howsoever. The mortgage lien hereby given is to vest, as fast as rights of way, or lands whereon the works and conveniences used in constructing, maintaining or operating said railway are acquired or taken by virtue of the powers of the said trustees. Said bonds may be made payable, both as to principal and interest, in gold or lawful money.

Rights of bondholders, &c.

SEC. 2. Deeds and contracts may be made, and proceedings for appropriation and actions may be commenced, either in the name of the city providing the line of railway, or in the name of the "Trustees of ——— Railway," (filling the blank with the name given to the railway in the resolution,) and said proceedings may be commenced and conducted either in the court of common pleas or the probate court, as in other cases of appropriation for the use of municipal corporations.

Deeds and actions, in what name commenced.

Occupation  
of streets,  
grounds, &c.

SEC. 3. If said trustees shall find it necessary for the purposes of the railway to use or occupy any street, alley, or other public way, space or ground, or any part thereof belonging to such city, they may take and use, or occupy the same; and if the municipal authorities having charge thereof shall require said trustees to provide a new street, alley or other way, space or ground, in place of that so used or occupied, they may acquire, by purchase or appropriation, the necessary land, and cause the necessary improvement to be made thereon.

Powers of  
trustees in  
completing,  
leasing, &c.

SEC. 4. In addition to the powers given to the said trustees in the act to which this is supplementary, they shall have power to contract for completing and leasing the whole line of railway for which they are trustees; but no such contract and lease shall be made until they shall have prepared and submitted for inspection, as herein provided, a form of lease containing the conditions on which said line of railway will be let and held. After said form is prepared, it shall be printed in full, and notice given by publication in two or more newspapers of general circulation in said city, that said trustees will attend at a stated time and place, with a printed copy, to hear such suggestions and objections as may be urged in regard to the proposed conditions. Such hearing shall be held for at least three days, and for such further time as the trustees shall deem necessary. A certified copy of the form of lease which they may finally adopt shall be deposited with the city auditor, and thereafter no change shall be made in the conditions without a new notice and like hearing.

SEC. 5. This act shall take effect on its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 18, 1873.

## AN ACT

To amend section ten (10) of an act entitled "An act to authorize the removal of drift, timber, and other obstructions from the natural channel of streams, and to protect lands from overflow," passed May 4, 1869. (O. L., vol. 66, page 86.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section ten of an act entitled "An act to authorize the removal of drift, timber, and other obstructions from the natural channel of streams and to protect lands from overflow," passed May 4, 1869, be so amended as to read as follows :

Section 10. But if no appeal shall be taken as provided for in the sixth section of this act, then it shall be the duty of said township trustees, upon the expiration of the time specified by them for finishing said improvement, and upon being satisfied by inspection and view that any part of such improvement has not been completed, to make a fair and impartial estimate of the cost and expense of said improvement, and to proceed to sell the work of said improvement to the lowest responsible bidder, and at a price not exceeding twenty per cent. above said estimate; and said trustees shall, before making said sale, give public notice of the time and place of such sale for at least three consecutive weeks in some newspaper published and of general circulation in the county where the said improvement is proposed to be made, and said notice shall also specify the time when such work shall be completed; and said trustees shall take such bond or other security for the performance of such work as they may deem proper; and immediately after the sale of such unfinished improvement as is contemplated in the third section of this act, said township trustees shall certify to the county auditor the amount each section sold for, adding the proportionate amount of costs and expenses of such sales, together with a correct description of each piece of land, and the auditor shall place the same on the duplicate, to be collected as other state and county taxes are collected. As soon as such work shall be completed, in conformity with such sale and to the satisfaction of the trustees, said trustees shall certify the amount due each person to the auditor of the proper county, and said auditor shall draw orders for the payment of such amount out of the county treasury: Provided, that any person interested may pay the amount of the purchase and the proportionate share of costs and expenses as aforesaid to said trustees, at any time before the same are charged on the duplicate, to be paid by said trustees to the purchasers of such section or sections respectively.

SEC. 2. Said original section ten (10) is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 18, 1873.

## AN ACT

To extend the provisions of the act entitled "An act to promote and encourage Law Library Associations."

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the provisions of the act to promote and encourage law library associations, passed April 27, 1872, be and they are hereby extended to such counties of this state

Trustees to make estimates and sell improvements, in certain cases.

To be certified to county auditor, &c.

Provisions extended to certain counties.

*See*  
71:47

as have within their limits a city, the population of which by the last federal census was less than ninety thousand and more than thirty-one thousand five hundred inhabitants, in which city there is or shall be a law library association, which by its rules and by-laws furnishes to city and county officers and judges of the courts in such city and county the use of its law books, in the same manner as the same are permitted to be used by its members.

SEC. 2. This act shall take effect from and after its passage.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed April 18, 1873.

## AN ACT

For the establishment and maintenance of public libraries in certain cities of the first class.

Establishment of libraries in certain cities authorized.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That in any city of the first class having a population at the last United States census of more than thirty-one thousand five hundred, and less than ninety thousand, the city council may, by a resolution passed by a majority of the members elected thereto, declare it to be essential to the interest of such city to establish and maintain a public library and reading-room, and may annually levy a tax not exceeding one-half mill on the dollar on the taxable property of such city, for that purpose, to be called the library fund, which shall be certified to the county auditor of the county and placed on the tax duplicate of the county and collected as other taxes.

Board of management—its powers and duties.

SEC. 2. The custody and management of such public library and reading-room, as well as its entire administration, shall be committed to a board of trustees, nine in number, of whom the mayor of such city for the time being shall be one, and the others shall be appointed by the common council, four of whom shall be appointed from such names as shall be nominated to the common council by the board of education of said city, and shall be citizens of approved learning, discretion and fitness for such office. They shall hold their office for the term of four years, and until their successors are duly elected and qualified: Provided, that the trustees first appointed, other than the mayor, shall be elected respectively for terms of one, two, three and four years from the first day of January next following their election, two for each term. Any vacancy caused by the death, resignation or removal of a trustee, or otherwise, shall be filled for his unexpired term by appointment of the common council. No trustee shall have compensation as such.

SEC. 3. As soon as said board of trustees shall be elected and organized, it shall be the duty of the board of education in such city to transfer to the custody and control of such board of trustees whatever public library or libraries may be in their possession or control, except such books of reference, maps or charts as the board of education may think proper to retain for use in school buildings; and thereafter no tax shall be levied by such board of education for a library fund.

Transfer of  
libraries by  
boards of ed-  
ucation.

SEC. 4. Said trustees shall, immediately after their appointment, meet and organize by the election of one of their number as president, and by the election of such other officers as they may deem necessary. They shall make and adopt such by-laws, rules and regulations for their own guidance and for the government of the library and reading-room, as may be expedient and not inconsistent with this act. They shall have exclusive control of the expenditures of all moneys collected to the credit of the library fund, and of the supervision, care and custody of the ground, rooms or buildings constructed, leased, or set apart for that purpose: Provided, that all moneys received for such library shall be deposited in the treasury of said city to the credit of the library fund, and shall be kept separate and apart from other funds, and drawn upon by the said board of trustees or its proper officer. Said board shall have the power to purchase grounds and erect thereon an appropriate building or buildings for the use of said library, or to occupy or lease a building or buildings for such purposes, not expending from the library fund in any one year in building and grounds more than half the tax revenue of such year. The title to such grounds so purchased shall vest in said board of trustees; they also shall have power to appoint a suitable librarian and necessary assistants, fix salary, and shall in general carry out the spirit and intent of this act in establishing and maintaining the best public library and reading-room with the means at their disposal.

Organization  
of boards.

Control of  
moneys, &c.

SEC. 5. Every library and reading-room established under this act, shall be forever free to the use of the inhabitants of the city, always subject to such reasonable rules and regulations as the library board may find necessary to adopt and publish in order to render the use of said library and reading-room of the greatest benefit to the greatest number, and may exclude and cut off from the use of said library and reading-room any and all persons who shall willfully violate such rules.

Library to  
be free to  
use of inhab-  
itants.

SEC. 6. The said board of trustees shall make an annual report to the city council, stating the condition of their trust, the various sums of money received from the library fund, and from other sources, and how much moneys have been expended; the number of books and periodicals on hand; the number added by purchases, gifts or otherwise during the year; the number lost or missing; the number of books loaned out, and the general character and kind of such books, with such other statistics, information and suggestions as they may deem of general interest.

Annual re-  
port of trus-  
tees.

Punishment  
for injuries  
to library.

SEC. 7. The city council of such city shall have power to pass ordinances imposing suitable penalties for the punishment of persons committing injury upon such library, or the grounds, or other property thereof.

Donations  
for benefit of  
library.

SEC. 8. Any person desiring to make donations of money or real estate for the benefit of such library, shall have the right to vest the title to the money or real estate so donated, in the board of trustees created under this act, to be held and controlled by such board when accepted according to the terms of the deed of gift, devise or bequest of such property, and as to such property the said board shall be held and considered to be special trustees.

SEC. 9. This act shall take effect from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 18, 1873.

## AN ACT

To amend section five of an act entitled "An act for the punishment of certain offenses therein named," passed March 8th, 1831. (S. & C., 427.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section five of an act entitled "An act for the punishment of certain offenses therein named," passed March 8th, 1831, be amended so as to read as follows:

Unlawful  
assemblages  
forbidden;  
penalty  
therefor.

Section 5. That if three or more persons shall assemble together with intent to do any unlawful act with force and violence against the person or property of another, or to do any unlawful act against the peace, or being lawfully assembled shall agree with each other to do any unlawful act as aforesaid, and shall make any movement or preparation therefor, the persons so offending shall each, on conviction thereof, be fined in any sum not exceeding five hundred dollars, or be imprisoned in the county jail not exceeding thirty days, or both, at the discretion of the court.

SEC. 2. That section five of the original act to which this is amendatory be and the same is hereby repealed.

SEC. 3. This act shall be in force from its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 18, 1873.



## AN ACT

To amend section one hundred and forty-four of the act entitled "An act to establish a code of Criminal Procedure for the state of Ohio," passed May 6, 1869. (O. L., vol. 66, page 308.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section one hundred and forty-four of the act entitled "An act to establish a code of criminal procedure for the state of Ohio," passed May 6, 1869, be amended so as to read as follows:

Section 144. Where any issue of fact is joined on any indictment, and any material witness for the defendant resides out of the state, or residing within the state is sick or infirm, or is about to leave the state, or is confined in any prison of the state, such defendant may apply in writing to the court in term time, or the judge thereof in vacation, for a commission to examine such witness upon interrogatories thereto annexed; and such court or judge may grant the same, and order what and for how long a time notice shall be given the prosecuting attorney before such witness shall be examined.

Commissions for examination of witnesses authorized in certain cases.

SEC. 2. That section one hundred and forty-four of the above entitled act be and the same is hereby repealed.

SEC. 3. This act shall be in force after its passage.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed April 18, 1873.

## AN ACT

Supplementary to an act entitled "An act to enable townships and incorporated villages to establish Cemeteries common to both," passed March 17, 1860.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That it shall be lawful for the trustees of any two or more townships adjoining and in the same county, not having any incorporate village therein, to unite in the establishment of a cemetery common to the inhabitants of such townships, in the same manner as trustees of townships and councils of incorporated villages are authorized to do by the provisions of the act to which this is supplementary; and the trustees of the townships in which such cemetery is located shall be invested with the title thereto, and can control the management thereof, in the same manner and to the same extent as incorporated villages are in the act to which this is supplementary.

Adjoining townships authorized to unite for cemetery purposes.

SEC. 2. That all the provisions of the act to which this is supplementary shall apply to cemeteries established by virtue hereof.

SEC. 3. This act shall take effect upon its passage.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed April 18, 1873.

## AN ACT

To amend section ten of "An act prescribing the mode of assessment and collection of compensation to the owners of private property appropriated by and to the use of corporations," passed April 23, A. D. 1872. (O. L., 69, page 88.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section ten of the above recited act be so amended as to read as follows :

Verdict and  
judgment for  
private prop-  
erty appro-  
priated.

Section 10. After the case is submitted by the respective parties, the jury shall render their verdict in writing, signed by each juror, to the probate judge, who shall enter the same on the journal; and unless, for good cause shown, the court shall grant a new trial, the judge shall render judgment on such verdict for the amount thereof found due the owner or owners of each parcel respectively, and for such costs as may be assessed, which judgment may be enforced by execution, as upon judgment at law, which judgment shall also be to, and have the effect, that upon the full payment thereof, within thirty days, by the corporation, to the parties owning the property, or into court for their use, the said corporation shall hold the property in the petition described for the purpose for which the same was appropriated, and evidence of such judgment shall be entered on the records of the court; and thereupon such corporation shall hold the said property accordingly, and be entitled to process to put them in possession thereof: Provided, that upon the rendering of such judgment and the payment of the amount thereof into court for the use of the party or parties owning the property, said court shall immediately pay over on demand to said party or parties the amount of said judgment so rendered and paid into court as aforesaid.

SEC. 2. That section ten of the above recited act be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed April 19, 1873.

## AN ACT

Amendatory of, and supplementary to, an act entitled  
 "An act to regulate Insurance Companies doing an insurance business in the state of Ohio," passed April 27, 1872. (O. L., volume 69, page. 140.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That sections three, six, eight, fourteen, eighteen, twenty, twenty-one, and twenty-three of chapter one of the above recited act, be amended so as to read as follows :

Section 3. No joint stock company shall be incorporated under this chapter with a smaller capital than one hundred thousand dollars, which stock shall be divided into shares of one hundred dollars each ; nor shall any company on the plan of mutual insurance, be organized in this state until agreements shall have been entered into for insurance with at least two hundred applicants, the premiums on which shall amount to not less than fifty thousand dollars, of which at least ten thousand dollars shall have been paid in cash, and notes of solvent parties founded on actual and bona fide applications for insurance shall have been received for the remainder. No one of the notes received as aforesaid shall amount to more than five hundred dollars, and no two shall be given for the same risk, or be made by the same person or firm, except when the whole amount of such notes shall not exceed five hundred dollars ; nor shall any note be represented as capital stock unless a policy be issued upon the same within thirty days after the organization of the company, upon a risk which shall be for no shorter period than twelve months. Each of said notes shall be payable, in part or in whole, at any time when the directors shall deem the same requisite for the payment of losses by fire or inland navigation, and such incidental expenses as may be necessary for transacting the business of said company. And no note shall be accepted as part of such capital stock, unless the same shall be accompanied by a certificate of a justice of the peace of the town or city where the person making such note shall reside, that the person making the same is, in his opinion, pecuniarily good and responsible for the same ; and no such note shall be surrendered during the life of the policy for which it was given.

Section 6. It shall be unlawful for any insurance company organized under this chapter, or incorporated under any law of this state, for the purposes provided in the first section of this chapter, to invest its capital, or any part thereof, otherwise than in—1. United States bonds ; 2. Ohio state bonds ; 3. Bonds of any county, township, or municipal corporation in the state, issued in conformity with law ; 4. Bonds and mortgages on unincumbered real estate within the state of Ohio, worth fifty per cent. more than the sum loaned thereon, exclusive of buildings ; 5. The stock of any national bank located in

When company may commence business.

Notes and risks.

Bonds, stocks, etc., in which capital may be invested.

**Investment  
of accumu-  
lated or sur-  
plus funds.**

**Limit of  
stock, etc.,  
to be owned  
by any in-  
surance com-  
pany.**

**Penalty for  
violation.**

this state, organized under the provisions of an act of congress, entitled "An act to provide a national currency, secured by the pledge of United States stocks, and to provide for the circulation and redemption thereof," approved on the twenty-fifth day of February, in the year eighteen hundred and sixty-three, and acts amendatory of, and supplementary to said act; or, 6. First mortgage bonds of railroads within this state, upon which default in the payment of the interest coupons has not been made within three years previous to the purchase thereof. But any funds accumulated in the course of business, or surplus money over and above the capital stock of any insurance company, may be loaned on, or invested in, the above named securities; or, 1. Bonds and mortgages on unincumbered real estate within the state of Ohio worth fifty per cent. more than the sum loaned thereon, exclusive of buildings, unless such buildings are insured in some insurance company authorized to do business in this state, and the policy transferred to said company making the investment; 2. Bonds of any state of the United States; 3. Stocks, bonds, or other evidences of indebtedness of any solvent, dividend-paying institution incorporated under the laws of this or any other state, or of the United States, except their own stock; or, 4. Negotiable promissory notes maturing in not more than six months from the date thereof, secured by collateral security through the transfer of any of the classes of securities above described in this section, with absolute power of sale within twenty days after default in payment at maturity: Provided always, that no insurance company shall own more than one fourth of the capital stock of any one national bank, nor invest in, nor loan on the stocks and bonds, both included, of any one railroad company, to an extent exceeding one-tenth of its own capital, nor in the aggregate shall the investment in, and loan on, all railroad property exceed one-fourth of its capital. Not more than one-half of its capital shall be loaned on mortgage of real estate, as above provided for the investment of capital, and not more than one-tenth of the capital actually existing of any company shall be invested in a single mortgage; and provided further, that the current market value of all such stocks, bonds, or other evidences of indebtedness, as above mentioned, in which the accumulations or surplus money over and above the capital stock of any insurance company, may be loaned or invested, shall be at all times during the continuance of such loans at least twenty per cent. more than the sum loaned thereon. If any investment or loan shall be made in a manner not authorized by this chapter, the directors making or authorizing the same shall be personally liable to the stockholders for any loss occasioned thereby; but insurance companies organized under the laws of this state, now doing business, shall not be compelled to change any investment made in accordance with the acts heretofore passed regulating said companies.

A 71: 65

~~Section 8. It shall be lawful for any company organized under this chapter: First—To insure houses, buildings and all other kinds of property, against loss or damage by fire, in and out of the state; and to make all kinds of insurance on goods, merchandise and other property in the course of transportation, whether on land or water, or on any vessel or boat whatever the same may be. Second—To make insurance on the health of individuals, and against personal injury, disablement or death, resulting from traveling or general accidents by land or water. Third—To insure the fidelity of persons holding places of public or private trust. Fourth—To receive on deposit and insure the safe-keeping of books, papers, moneys, stocks, bonds and all kinds of personal property; to lend money on bottomry or respondentia, and to cause itself to be insured against any loss or risk it may have incurred in the course of its business, and upon the interest which it may have in any property by means of any loan or loans which it may have made on mortgage, bottomry or respondentia, and generally to do and perform all other matters and things proper to promote these objects: Provided, that no company shall be organized to issue policies of insurance for more than one of the above four mentioned purposes, and no company that shall have been organized for either one of said purposes, shall issue policies of insurance for any other.~~

Lawful business for insurance companies; buildings, &c.

Health.

Fidelity.

Books, moneys, stocks, &c.

Section 14. No fire insurance company organized under any law of this state, shall make any dividend, except from the surplus profits arising from its business. In estimating such profits, there shall be reserved therefrom: First—A sum equal to fifty per cent. of the whole amount of premiums on unexpired risks and policies, which are hereby declared to be unearned premiums. Second—All sums due the company on bonds and mortgages, bonds, stocks and book accounts, of which no part of the principal nor the interest thereon has been paid during the preceding year, and for which foreclosure or suit has not been commenced, or which, after judgment obtained thereon, shall have remained more than two years unsatisfied, and on which interest shall not have been paid; and, Third—All interest due or accrued and remaining unpaid for which the company does not hold securities as hereinbefore provided. Any dividend made contrary to provisions of this section, shall subject the company making the same to a forfeiture of its charter, and each stockholder receiving it to a liability to the creditors of such company to the extent of the dividend received, besides the other penalties and punishments prescribed by law. This section shall not apply to the declaration of scrip dividends by participating companies; but no such scrip dividend shall be paid, except from surplus profits after reserving all sums above provided, including the whole amount of premiums on unexpired risks. The word "year," wherever used in this section, shall be construed to mean the calendar year.

Reservations required of fire insurance companies.

Section 18. It shall be the duty of the president or vice president and secretary of each insurance company organ-

**Annual statement to superintendent of insurance required; its contents.**

**Capital stock.**

**Property or assets.**

**Liabilities.**

**Income.**

ized under this chapter, or incorporated under any law of this state, as enumerated in the eighth section of this act, other than marine insurance companies, annually, on the first day of January, or within thirty days thereafter, and of each marine insurance company, within sixty days thereafter, to prepare, under oath, and deposit in the office of the superintendent of insurance, a statement of the condition of such company on the thirty-first day of December then next preceding, exhibiting the following facts and items, in the following form, namely: First—The amount of the capital stock of the company, specifying the amount paid and unpaid. Second—The property or assets held by the company, specifying—1. The value, or as nearly as may be, of the real estate owned by such company, where situate, and value of buildings; 2. The amount of cash on hand and deposited in banks to the credit of the company, specifying in what banks the same is deposited; 3. The amount of cash in the hands of agents and in course of transmission; 4. The amount of loans secured by bonds and mortgages, constituting the first lien on real estate, on which there shall be less than one year's interest due or owing; 5. The amount of loans on which interest shall not have been paid within one year; 6. The amount due the company on which judgments have been obtained, and the cash value thereof; 7. The amount of stocks of this state, the United States, of any incorporated city of this state, and of any other stocks owned by the company, specifying the amount, number of shares, and par and market value of each kind of stock; 8. The amount of stock held as collateral security for loans, with the amount loaned on each kind of stock, its par value and market value; 9. The amount of assessments on stock or premium notes unpaid; 10. The amount of interest actually due and unpaid, and the amount of interest accrued but not due; 11. The amount of premium notes on which policies are issued; 12. The number of policies in force; 13. The amount insured under all policies in force; 14. The amount of premium received thereon; 15. The amount of all other assets, specifying what. Third—The liabilities of such company, specifying—1. The amount of losses due and unpaid; 2. The amount of claims for losses resisted by the company; 3. The amount of losses incurred during the year, including those claimed and not due, and of those reported to the company upon which no action has been taken; 4. The amount of dividends declared and due, and remaining unpaid; 5. The amount of dividends, either cash or scrip, declared, but not due; 6. The amount of money borrowed and security given for the payment thereof; 7. The amount required for reinsurance, being in joint stock companies a sum equal to fifty per cent. of the whole amount of premiums on unexpired risks and policies, and in mutual insurance companies a sum equal to fifty per centum of the cash premiums received on unexpired risks and policies. 8. The amount of all other existing claims against the company. Fourth—The income of the company during the preceding year, specifying—1. The amount of cash premiums received;

2. The amount of notes received for premiums; 3. The amount of interest money received; 4. The amount of income received from other sources. Fifth—The expenditure during the preceding year, specifying—1. The amount of losses paid during the year, stating how much of the same accrued prior, and how much subsequent to the date of the preceding statement, and the amount at which losses were estimated in such preceding statement; 2. The amount of dividends paid during the year; 3. The amount of expenses paid during the year, including commissions and fees to agents and officers of the company; 4. The amount paid in taxes; 5. The amount of all other payments and expenditures.

Expenditure.

Section 20. It shall not be lawful for any insurance company, association or partnership, incorporated, organized or associated under the laws of any other state of the United States, or any foreign government, for any of the purposes mentioned in this chapter, directly or indirectly, to transact any business of insurance in this state, without first procuring from the superintendent a certificate of authority so to do; nor shall it be lawful for any person or corporation, directly or indirectly, to act as agents in this state for any such company or association, either in procuring applications for insurance, taking risks, or in any manner transacting the business of insurance, without first procuring from the superintendent a license so to do, stating also that said company has complied with all the requisitions of this act applicable to such company, and depositing a certified copy of such license in the office of the recorder of the county in which the office or place of business of such agent or agents may be established; nor it shall it be lawful for any insurance company, association or partnership, organized under the laws of any other state, directly or indirectly, to take risks or transact business of insurance in this state, unless possessed of the amount of actual capital required of similar companies formed under the provisions of this chapter, nor unless the entire capital stock of said company be fully paid up and invested as required by laws of the state where organized; and any company desiring to transact any business as aforesaid, by any agent or agents, in this state, shall file with the superintendent a written instrument, duly signed and sealed, authorizing any agent or agents of such company in this state to acknowledge service of process for and in behalf of such company in this state, consenting that service of process, mesne or final, upon any any such agent or agents, shall be taken and held to be as valid as if served upon the company according to the laws of this or any other state or country, and waiving all claim or right of error by reason of such acknowledgment of service; also waiving all claim or right to transfer or remove any cause then or thereafter pending in any of the courts of this state, wherein such company may be a party to any of the courts of the United States; and consenting that suit may be brought thereon in the county where the property insured was situate or where the same was insured, and that service of process made therein by the

Companies of other states and foreign governments must procure certificates.

Agents must be licensed.

Conditions as to risks.

Instruments to be filed.

Service of process.

Service upon  
companies  
which have  
ceased to do  
business.

sheriff of such county, by sending a copy thereof by mail addressed to the company at the place of its principal office, located in the state where such company was organized in case of a company organized under the laws of any other state of the United States, and in case of a foreign insurance company, then such copy of summons or other process shall be mailed, postage prepaid, to such company, at the place of its principal office in the United States, at least thirty days prior to taking judgment in said suit, shall be as valid as if personally made upon said company according to the laws of this state or any other state or government; and in case suit shall be brought against any company which has ceased to do business in this state as aforesaid, service upon such company shall be had by the sheriff mailing a copy of the summons or other process, postage prepaid, addressed to such company at the place of its principal office when it ceased to do business in this state as aforesaid, at least thirty days prior to the date of taking judgment in said suit: Provided, that the sheriff's return shall show the time and manner of such service; they shall also file with the superintendent a certified copy of their charter or deed of settlement, together with a statement, under the oath of the president or vice president, or other chief officer, and the secretary of the company for which he or they may act, stating the name of the company and place where located, the amount of its capital, with a detailed statement of the facts and items required from the companies organized under the laws of this state, as per section eighteen and nineteen of this chapter; also a copy of the last annual report, if any was made, under any law of the state by which such company was incorporated.

Deposit of  
stocks by  
companies of  
foreign gov-  
ernments.

Section 21. Any company incorporated by or organized under the laws of any foreign government, shall deposit with the superintendent of insurance, for the benefit and security of the policy-holders residing in this state, a sum not less than one hundred thousand dollars, in stocks of the United States or the state of Ohio, said stocks not to be received by said superintendent at a rate above their par value; the stocks and securities so deposited may be exchanged from time to time for other like securities. So long as the company so depositing shall continue solvent and comply with the laws of this state, it shall be permitted by such superintendent to collect the interest or dividends on said deposit. For the purpose of this act, the capital of any foreign insurance company, doing fire insurance business in this state, shall be deemed to be the aggregate value of its deposits with the insurance or other departments of this state, and of the other states of the United States, for the benefit of policy-holders in this state, or in the United States, and its assets and investments certified according to the provisions of this act in the United States: Provided, that such assets and investments be vested in and held within the United States by trustees, citizens of the United States, appointed by the board of directors of the company, and approved by the insurance commissioner of the state where invested, for the

Rule of value  
of capital  
stock.



benefit of the policy holders and creditors in the United States. The trustees so chosen are hereby empowered to take, hold and convey real and personal property for the purpose of the trust, subject to the same restrictions as insurance companies of this state.

Section 23. Every company heretofore organized under any law of this state for any of the purposes mentioned in this chapter, which has not called in the whole amount of its subscribed capital stock, whether the unpaid balance of such capital be secured by indorsed notes or otherwise, shall retain from each and every dividend declared to its stockholders, their heirs or assigns, fifty per cent of such dividend, and shall apply the amount so withheld as a credit upon the balance remaining unpaid on the shares of such stockholders until such balance shall be fully paid; and the dividends from time to time so credited, with the capital previously paid in, shall be invested by the company in the manner required by the sixth section of this chapter: Provided, however, that if the dividends credited as aforesaid, shall not within five years from the first day of January, 1873, be equal to said balance in full, such company shall thereafter retain the whole amount of any and every dividend declared to its stockholders, their heirs or assigns, and shall credit and invest the same as aforesaid, until the whole subscribed capital shall be paid up and invested, not less in any case than one hundred thousand dollars; and any company violating any of the provisions of this section, shall thereby forfeit its charter.

Per cent. of dividends to be retained.

Proviso.

SEC. 2. No company or corporation organized under the laws of any other state, or of the United States, with authority to do a banking or any other kind of business in connection with insurance, shall do business in this state.

SEC. 3. Sections three (3), six (6), eight (8), fourteen (14), eighteen (18), twenty (20), twenty-one (21) and twenty-three (23) of the above recited act are hereby repealed.

SEC. 4. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 24, 1873.

✓ 71:12  
No banking company shall do insurance business in this state.

## AN ACT

Supplementary to an act entitled "An act to provide for the organization and government of Municipal Corporations," passed May 7th, 1869.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio, That the city council of any municipal corporation in this state, through which the National road passes,*

Control of  
city councils  
over portions  
of National  
road.

shall have power to improve, repair, widen and grade the road-bed, gutters and sidewalks of said road within the corporate limits of such city, in the same manner and upon the same terms and conditions that such city council are now authorized to make such improvements, repairs and grades, by virtue of "An act to provide for the organization and government of municipal corporations," passed May 7th, 1869, and all acts amendatory thereof.

SEC. 2. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 22, 1873.

## AN ACT

Supplementary to an act entitled "An act to authorize the removal of obstructions from and the clearing out of the channel of the Scioto river at the southern terminus of the Ohio canal." (O L., volume 69, page 171.)

WHEREAS, The board of public works, in its last annual report, states that the amount appropriated by the act to which this is supplementary is insufficient to carry out the object therein specified; and

WHEREAS, According to said report, the board of public works can contract with responsible parties to make said improvement for fifteen thousand dollars, requiring an additional appropriation of five thousand dollars, which said additional appropriation said board respectfully recommends; therefore,

Appropriation for clearing out Scioto river.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That to carry into effect the provisions of the act to which this is supplementary, there is hereby appropriated from the general revenue of the state, to be expended under the warrant of the said board of public works, the additional sum of five thousand dollars, the same to be refunded to the general revenue from the proceeds of the public works as rapidly as the same may become available for that purpose.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 24, 1873.

## AN ACT

Further prescribing the duties of Secretaries of Railroad and Telegraph Companies in the State of Ohio.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be and is hereby made the duty of the secretary of each and every railroad company, and of each and every telegraph company, now doing business, or whose line is in process of construction, or which may be hereinafter organized within the state of Ohio, within thirty days from and after the passage of this act, or within thirty days after the election of the directors of said company, as provided in section nine of an act to provide for the creation and regulation of incorporated companies in the state of Ohio, passed May 1, 1852 (S. & C., 271), to make out and forward to the commissioner of railroads and telegraphs a statement of the officers and directors of their respective companies, giving the place of residence and post-office address of each; and thereafter, if any change shall occur in the organization of the officers or board of directors of said company, to notify the commissioner of railroads and telegraphs of the fact of such change, and the residence and post-office address of each of said officers and directors.

Statement required to be made by railroad companies.

SEC. 2. That for a failure to comply with the provisions of this act, any company so neglecting for thirty days after the time herein provided shall be subject to the same penalties as attach for neglecting or refusing to make the required annual report to the commissioner of railroads and telegraphs.

Penalty for failure to comply.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 24, 1873.

## AN ACT

To punish Bribery in certain cases.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That if any person shall offer or give, or cause to be offered or given, any money or other valuable thing to any member of the general assembly or other person holding any office of honor, profit or trust under the constitution or laws of this state, either before or after his qualification, with intent to influence the vote of such member, or the decision

Penalty for offering or accepting a bribe.

of such officer, on any question or matter which may be pending or brought before such member or officer in his official capacity, or if any member or officer shall accept such money or other valuable thing with the purpose aforesaid, he shall be deemed guilty of a felony, and on conviction thereof shall be fined in any sum not exceeding three times the amount or value so offered, or given or accepted, and imprisoned in the penitentiary not less than one nor more than five years, and shall forever be disqualified from holding any office of honor or trust under the state of Ohio.

SEC. 2. This act shall take effect on its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed April 24, 1873.

## AN ACT

To prevent frauds upon Railroad Companies.

Penalty for  
forging or  
altering rail-  
road ticket,  
check, pass,  
&c.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That if any person shall counterfeit, forge or alter any ticket, check, order, coupon, receipt for fare or pass, printed, written, lithographed or engraved, issued by any railroad company, or by the owner, owners, agent, lessees or managers of any railroad company authorized to run or operate a railroad within the state of Ohio, designed to entitle the holder to ride on the cars of such railroad, or shall knowingly have in his or her possession any such counterfeit, forged or altered ticket, check, order, coupon, receipt for fare or pass, or shall utter, publish or put in circulation any such counterfeit, forged or altered ticket, check, order, coupon, receipt for fare or pass, with intent to defraud any such company, owners, lessees, managers or any other person, the person so offending, shall, upon conviction thereof, be fined in any sum not exceeding five hundred dollars, or imprisoned in the jail of the county not exceeding six months, or both, at the discretion of the court.

Penalty for  
fraud in use  
of canceled  
checks, &c.

SEC. 2. That if any person shall, for the purpose and with the intent of restoring to its original appearance or to its nominal value in whole or in part at the time when the same was issued by any such railroad company, owner, lessee, agent or manager of such railroad, by any process, means or device whatsoever, remove, conceal, fill up or obliterate the cuts, marks, punch holes, or other evidence of cancellation, from any such ticket, check, order, coupon, receipt for fare or pass, which had therefore been issued by such company, owner, agent, lessee or manager, and canceled in whole or in part, with intent to dispose of by sale or gift, or to circulate

the same, or with the intent to defraud the company, owner, lessee or managers which had issued the same, or shall knowingly, with such fraudulent intent, have in his or her possession, or shall offer for sale, or shall offer in payment of fare on such railroad, such ticket, check, order, coupon, or pass, knowing the same to have been restored in whole or in part, or to have been canceled, with intent to defraud as aforesaid, or shall knowingly sell, offer for sale or use any ticket, coupon, receipt or pass which should have been canceled, or any conductor of any railroad company who shall purposely fail to cancel any ticket, receipt, pass or coupon, which he has or should take up or cancel, or any person who shall in any manner trade, traffic, deal in or use any ticket, coupon, pass or receipt, which should have been taken up or canceled, such person or conductor so offending, shall, upon conviction thereof, be fined in any sum not exceeding five hundred dollars, or imprisoned in the jail of the county not exceeding six months, or both, at the discretion of the court.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 JACOB MUELLER,  
*President of the Senate.*

Passed April 24, 1873.

#### AN AOT

Supplementary to "An act to provide for the classification and election of Trustees of Institutions of Learning," passed April 29, 1872, (O. L., vol. 69, page 180,) "and also supplementary to an act to provide for the perpetuation of Boards of Trustees and the appointment of visitors of Universities and Colleges," passed May 13, 1868, (O. L., vol. 65, page 138.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That in case the term of office of any trustee, or class of trustees, elected according to the provisions of either of the above recited acts, would otherwise expire during any meeting of the board of trustees, such term shall continue until the final adjournment of such meeting, and if his or their successor or successors have not been previously appointed: until such successor or successors shall be appointed: Provided, that no meeting of such board shall continue for a longer period than two weeks after the expiration of the term of office of such trustees.

Relative to  
 term of office  
 of trustees.

SEC. 2. This act shall take effect on its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 JACOB MUELLER,  
*President of the Senate.*

Passed April 24, 1873.

## AN ACT

To amend sections ten and eleven of an act entitled an act to provide for the appointment of a Commissioner of Railroads and Telegraphs, and prescribe his duties, passed April 5, 1867, as amended May 13, 1868. (S. & S., page 76).

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That sections ten and eleven of the above recited act be so amended as to read as follows:

Penalty for neglecting to furnish report.

Section 10. Every president or other officer in charge of any railroad now doing business, or in the course of construction in this state, or of any company organized in this State as provided by section seven of the act entitled "An act regulating railroad companies," passed February 11, 1848, who shall neglect or refuse to make and furnish such report at the time prescribed in section nine of this act, as amended May 13, 1868, or as required by the commissioner, shall forfeit and pay a sum not exceeding one thousand dollars, to be recovered in the name and for the use of the state of Ohio; and he shall be subject to a like penalty for every period of thirty days after the time he shall neglect or refuse to make such report.

Annual report of business to be made by telegraph companies.

Section 11. It shall be the duty of the president or chief officer of any telegraph line or company doing business in this state, or in process of construction, to make an annual report of its business to the commissioner of railroads and telegraphs, in such form as such commissioner may direct, for the year ending on the 30th day of June preceding, which report shall be verified by the oath or affirmation of such president or officer in charge, and shall be filed in the office of the commissioner by the first day of September in each year. For a refusal or neglect by such officer to make and furnish such report, at the time prescribed in this act, the company he represents shall forfeit and pay a sum not exceeding five hundred dollars, to be recovered in the name and for the use of the state of Ohio, and said company shall be subject to a like penalty for every period of thirty days after the time its chief officer shall neglect or refuse to make and file such report.

Penalty for neglect.

SEC. 2. That the original sections ten and eleven of the above recited act, passed April 5, 1867, is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 25, 1873.

## AN ACT

To amend an act entitled an act to amend an act entitled "An act to provide for the organization and government of Municipal Corporations," passed February 14, 1873. (O. L., vol. 70, page 24.)

**SECTION 1.** *Be it enacted by the General Assembly of the State of Ohio,* That section 507 of the act entitled "An act to provide for the organization and government of municipal corporations," as amended February 14th, 1873, be and the same is hereby amended so as to read as follows:

Section 507. Each city and incorporated village shall have power to appropriate, enter upon and hold real estate within its corporate limits for the following purposes, but no more shall be taken or appropriated than is reasonably necessary for the purpose to which it is to be applied:

1. For opening, widening, straightening and extending streets, alleys and avenues; also for obtaining gravel or other proper material for the improvement of the same, and for this purpose the right to appropriate shall not be limited to lands lying within the limits of the corporation.

2. For market space.

3. For buildings and structures required for the use of the fire department.

4. For public halls and necessary offices.

5. For prisons.

6. For infirmaries.

7. For workhouses.

8. For houses of refuge and correction.

9. For public hospitals.

10. For public parks; and for this purpose the right to appropriate shall not be limited to lands lying within the limits of the corporation.

11. For gas works.

12. For water works; and for this purpose the right to appropriate shall not be limited to lands lying within the limits of the corporation.

13. For school-house sites and grounds, the same having been recommended and the site selected by the board of education; or for university site and grounds, the same having been recommended and the site selected by the board of directors of any university whose property is exclusively owned and whose directors are appointed by said municipal corporations.

14. For public cemeteries; and for this purpose the right to appropriate shall not be limited to lands lying within the corporation. But no land shall be appropriated under this provision until the court shall be satisfied that suitable premises cannot be obtained by contract upon reasonable terms; and no lands shall be appropriated upon which there may be any dwelling-house, barn, stable, or other farm building, or upon which there shall be any orchard or nursery, or any valuable mineral or other medical spring, or any well actu-

Purposes for which private property may be appropriated.

Streets.

Markets, engine houses and halls.

Prisons, &c.

Parks.

Gas and water works.

School houses and universities.

Cemeteries.

ally yielding oil or salt water; nor shall any land be appropriated within two hundred yards of any dwelling-house.

Wharves,  
levees, &c.

15. For public wharves and landings on navigable waters.

16. For levees to protect against floods; and for this purpose the corporation shall have power to appropriate, enter upon and take private property lying outside of the corporate limits, and may extend and strengthen its levees and embankments along any river or stream adjacent to the limits of the corporation, and may widen the channel of such river or stream.

Bridges,  
canals, &c.

17. For necessary bridges.

18. For constructing, opening, excavating, improving, deepening, enlarging, straightening and extending any canal, ship canal or water course, located in whole or in part within the limits of the corporation, which is not owned in whole or in part by the state, or by any company or individual authorized by law to make such improvement.

Sewers, &c.

19. For sewers, drains and ditches; and for this purpose the corporation shall have power to appropriate, enter upon and take private property lying outside of the corporate limits.

20. For public water closets and privies.

21. For lighting any public use.

SEC. 2. That said original section five hundred and seven of said original act, passed May 7, 1869, as amended by act of April 18, 1870, as amended by act of February 14, 1873, be and the same is hereby repealed.

SEC. 3. This act shall be in force from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed April 25, 1873.

## AN ACT

To amend an act entitled an act for the relief of Hydraulic Companies, passed April 28th, 1868. (S. & S., page 174.)

Borrowing  
money for  
repairs, &c.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That any hydraulic company incorporated under the laws of this state may, for the purpose of repairing, completing or extending its works, borrow money to an amount not exceeding one-half of its capital stock actually paid in, and may secure the payment of the money so borrowed by the issue of bonds or notes, bearing interest not to exceed the rate authorized by law, and secured by mortgage or mortgages on its real estate or any part thereof: Provided, that



said bonds or notes shall not be issued by said hydraulic company without first obtaining the assent in writing of a majority of the stock in said company.

SEC. 2. That the act to which this is amendatory be and the same is hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed April 25, 1873.

### AN ACT

To amend section thirteen of an act entitled "An act to provide for the creation and regulation of Incorporated Companies in the State of Ohio," passed May 1, 1852.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section thirteen of the above mentioned act be amended so as to read as follows:

Section 13. Such corporation or any corporation operating a railroad in whole or in part in this state, may demand and receive for the transportation of passengers on said road, not exceeding three cents per mile for a distance of more than eight miles, and for the transportation of property, not exceeding five cents per ton per mile, when the same is transported a distance of thirty miles or more; and in case the same is transported a less distance than ten miles, such reasonable rate as may be from time to time fixed by said company or prescribed by law; and every such corporation, company, person or persons who shall violate, or permit to be violated, the provisions of this act, or any other corporation, company, person or persons who shall demand or receive a greater sum of money for the transportation of passengers or property on or over their railroad than the sum allowed by law, shall forfeit and pay to the party aggrieved a sum equal to double the amount of the overcharge, but in no case shall the amount of the forfeiture be less than twenty-five dollars.

SEC. 2. That said section thirteen is hereby repealed, and this act shall be in force from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed April 25, 1873.

Limit of  
prices for  
transporta-  
tion of pas-  
sengers and  
freight.

Penalty for  
violation.

## AN ACT

For the protection of livery stable keepers and others.

Lien upon  
horses, &c.,  
boarded by  
livery stable  
keepers.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That any livery stable keeper or other person who shall feed or furnish food and care for any horse, mare, foal, filly, gelding, mule or ass, by virtue of any contract or agreement with said owner thereof, shall have a lien to secure the payment of the same upon such horse, mare, foal, filly, gelding, mule or ass.

When horse,  
&c., may be  
sold for ex-  
penses of  
keeping.

SEC. 2. Any livery stable keeper feeding or furnishing food and care for any horse, mare, foal, filly, gelding, mule or ass, shall retain such horse, mare, foal, filly, gelding, mule or ass, for the period of ten days, at the expiration of which time, if the owner does not satisfy said lien, such livery stable keeper may sell such horse, mare, foal, filly, gelding, mule or ass, at public auction, after giving such owner ten days' notice in some newspaper of general circulation in the county where the services were rendered. After satisfying the lien and costs that may accrue, any residue remaining shall be paid to the owner.

SEC. 3. This act shall take effect on its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 26, 1873.

## AN ACT

Supplementary to an act entitled "An act to promote and encourage Law Library Associations," passed April 27, 1872. (O. L., volume 69, page 165.)

Judges of  
common  
pleas to  
fix compen-  
sation of law  
librarian.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That in all counties in this state which may contain within their limits a city of the first class having a population of more than two hundred thousand inhabitants, and in which city there may be established a law library association, which shall furnish to all the county officers and judges of the several courts of such counties admission to its library and the use of its books free of charge, it shall be the duty of the judges of the court of common pleas of all such counties, upon the appointment of a person to act as librarian of said law library association by the trustees thereof, to fix the compensation to be paid said librarian for his services, which compensation shall be paid out of the county treasury, and for which the county auditor shall issue the proper warrant.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 26, 1873.

## AN ACT

To authorize incorporated villages having a population of three thousand to receive, by gift or donation, land used as burying grounds lying within the limits of any such village, to be converted into a park, and to remove bodies from any such grounds.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That any incorporated village not having a population of over three thousand, having within its corporate limits a cemetery belonging to any church or religious society, and the trustees or other proper authorities of such church or religious society, and their grantors, or the heirs of such grantors, shall unite in conveying the full title of the land on which such cemetery is situate to such village, may, by resolution of its council, accept such conveyance and convert said land into a public park for such village; and it shall thereupon be the right and duty of said village to remove the bodies buried in said cemetery, and to take charge of said land and improve and manage the same as a public park, under and in pursuance of the act entitled an act to provide for the organization and government of municipal corporations, passed May 7, 1869, and the acts amendatory thereof and supplementary thereto, with all the powers of taxation and other powers in that behalf conferred by said acts: Provided, however, that after the title of said land shall be so vested in said village, and before the removal of any of said bodies by said village, sixty days shall be allowed to the friends of those whose bodies are buried in the said cemetery to remove the same, and after the expiration of the said sixty days, said village shall cause all bodies still remaining in said cemetery to be carefully removed and buried, each in a separate grave, in some public cemetery, and place over the grave of each the monument that marked the original grave of such body.

Authority  
to convert  
cemetery  
grounds into  
parks, in cer-  
tain cases.

Removal of  
bodies.

SEC. 2. That this act shall take effect and be in force on its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 26, 1873.

## AN ACT

Supplementary to an act entitled an act for the organization and government of Municipal Corporations, passed May 7 (1869).

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That in any city or incorporated village where

Terms of  
members of  
councils to  
be determin-  
ed by lot in  
certain case.

elections have been held, or may hereafter be held, to elect members of the council, and a portion of such members elected for the full time, and a portion to fill vacancies that may exist, and the electors of such city or incorporated village having failed to designate the length of the terms of office of such persons so elected, it shall be lawful for such members of the council so elected to proceed, at their first regular meeting in May, or at such other time as such council may designate, to determine by lot, in such manner as may be prescribed by the mayor, the respective term of office to be held by each; and in cases of cities or incorporated villages that are divided into three or more wards, such lots are to be cast between members sitting for the same ward. In case any member of such council shall refuse or fail to attend at the time and place specified for this purpose aforesaid, then it shall be the duty of the mayor to act in casting lot for such absent member, and the result of the determination by lot herein provided shall fix the terms of office of the members of such council as fully as though they had been originally elected as contemplated by law.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 26, 1873.

## AN ACT

Supplementary to an act entitled "An act to provide for the election of an additional Judge of the Court of Common Pleas for the second sub-division of the fifth judicial district."

Election of  
judge; his  
term, salary,  
etc.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the second election for the additional judge of the court of common pleas of the second subdivision of the fifth judicial district, provided for by the act to which this is supplementary, shall be held on the second Tuesday of October, A. D. 1873, at the annual election for state and county officers, at which time such additional judge, who shall be a resident of said subdivision, shall be elected by the qualified voters of said counties of Highland, Ross and Fayette; and said election shall be in the same manner and for the same term as prescribed by law for the election of other judges of the court of common pleas; and said judge, when so elected and qualified, shall hold his office for the same term as regular judges of the court of common pleas, and shall be entitled to receive the same salary, possess the

same powers and discharge the same duties as are conferred or enjoined by the constitution and laws of the state upon other judges of said courts; and any vacancy that may occur in the office of such additional judge, whether by expiration of his term of service, or otherwise, shall be filled as in other cases.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 26, 1873.

## AN ACT

To amend an act entitled "An act to provide an Insurance Department in the state of Ohio," passed March 12, 1872. (O. S. L., vol. 69, page 32.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That sections nine, ten, eleven, fourteen and sixteen of said act be amended so as to read as follows:

Section 9. Whenever it shall appear to the said superintendent, from such examination, that the assets of any life insurance company organized under the laws of this state, are insufficient to reinsure its outstanding risks, as provided by this act, or that the assets of any joint stock insurance company other than life, organized under the laws of this state, after deducting therefrom all actual liabilities and a reinsurance fund equal to fifty per cent. of the whole amount of premiums on all unexpired risks and policies, are reduced twenty per cent. or more below the capital stock required by law, he shall require the officers thereof to direct the stockholders to pay in the amount of such deficiency, within such period as he shall designate in such requisition. After the superintendent shall issue his requisition calling for a sum to be paid by the stockholders of any company, amounting to or exceeding forty per cent. of the capital, it shall be unlawful for said company to issue any new policies or transact any new business until the superintendent of insurance shall issue to such company a license, authorizing it to resume business, or until the court shall have rendered its decision on the case, as hereinafter provided. But in case said requisition shall call for a less amount than forty per cent. of said capital, and the officers of the company shall, in accordance with said requisition, direct the stockholders to pay the amount required for making up the capital, and so signify to the superintendent, then it shall be lawful for said company to continue business as before the issuing of said requisition,

Proceedings  
against un-  
sound com-  
panies.

for the term of thirty days from the date thereof. At the expiration of said thirty days, any portion of the requisition of the superintendent remaining unpaid, it shall be unlawful for said company to issue any new policies or transact any new business until authorized by the superintendent as aforesaid.

Procedure in case of default to comply with requisition.

Section 10. In case of default on the part of said company to comply with such requisition, the superintendent shall communicate the fact to the attorney general, who shall apply to the court of common pleas of the county in which the principal office of said company is located for an order requiring such company to show cause why the business of such company should not be closed, and shall give to said company such notice of the pending of such application as said court shall direct, and the court shall thereupon proceed to hear the allegations and proof of the respective parties; or, the court shall have power to refer the application of the attorney general to a referee, to inquire into and report upon the facts stated therein. In case it shall appear to the satisfaction of said court that the assets of said company are not sufficient as aforesaid, or that the interests of the public so require, the said court shall decree a dissolution of said company and a distribution of its effects. Any transfer of the stock of any company made during the pendency of any such investigation shall not release the party making the transfer from his liability for losses which have accrued previous to the transfer.

In relation to unsound mutual insurance companies.

Section 11. If, upon examination, it shall appear to the superintendent that the assets of any company organized on the plan of mutual insurance, after deducting therefrom all actual liabilities and a re-insurance fund equal to fifty per cent. of the advanced cash premiums received on all unexpired risks and policies, are insufficient to justify the continuance of such company in business, it shall be his duty to proceed, in relation to such company, in the same manner as is herein required in regard to joint stock companies; and the trustees or directors of such company are hereby made personally liable for any losses which may be sustained upon risks taken after the superintendent of insurance shall have issued his requisition for filling up the deficiency in the assets, and before such deficiency shall have been made up: Provided, that nothing herein shall be so construed as to require any mutual fire insurance company to keep on hands any cash re-insurance reserve or funds invested in securities, other than their premium notes, when said premium notes amount in gross to three per centum of the amount at risk by said company.

Annual valuations, rate of interest, &c.

Section 14. It shall be the duty of the superintendent, annually, to make or cause to be made net valuations of all outstanding policies, additions thereto, unpaid dividends and all other obligations of every life insurance company transacting business in this state; and for the purpose of such valuations, and for making special examinations of the condition of life insurance companies, as provided in the laws

of this state relating to life insurance companies, and for valuing all policies of whatever description, and for any purpose whatever, the rate of interest shall be four and one-half per cent. per annum, and the rate of mortality shall be established by the tables known as the American experience tables: Provided, that whenever the laws of any other state of the United States shall authorize a valuation of life insurance policies by some designated state officer, according to the standard herein provided, or according to any other standard which shall make the value of the policy not less than that of the standard herein provided, the valuation made according to the said standard, by such officer, of the policies and other obligations of any life insurance company not organized under the laws of this state, and certified by said officer, may be received as true and correct, and no further valuation of the same shall be required of such company by the superintendent of insurance.

Section 16. All securities deposited with the superintendent of insurance, pursuant to the provisions of any law of this state, shall be deposited by said superintendent of insurance with the treasurer of state, who, with his sureties, shall be responsible for the safe-keeping thereof; and said treasurer shall only deliver such securities, or coupons attached thereto, upon the written order of the superintendent of insurance.

Securities  
to be de-  
posited in  
state treas-  
ury.

SEC. 2. That sections nine (9), ten (10), eleven (11), fourteen (14), and sixteen (16) of the above recited act be and the same are hereby repealed.

SEC. 3. This act shall be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 26, 1873.

## AN ACT

Relating to Juries.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the court of common pleas of each county shall, at the first term thereof in each year, cause an order to be entered on the minutes of said court, determining the number of persons necessary to be selected in each county annually to serve as grand and petit jurors in the district court, superior court and court of common pleas of such county; such order, if not made at the term herein prescribed, may be made at any other time, and may be amended from time to time at the discretion of the court. Until such order may be made, the number of persons to be selected for

Number of  
grand and  
petit jurors  
to be deter-  
mined by  
court of com-  
mon pleas

jurors in each county, shall be as heretofore determined: Provided, if in any county there shall have been no such determination, such number shall be one hundred and thirty, until otherwise ordered as aforesaid.

To be apportioned to number of inhabitants.

SEC. 2. That the clerk of the court of common pleas of each county shall, on the first Monday of September, annually, apportion the number of jurors determined as aforesaid among the several townships in such county, according to the number of male inhabitants therein, respectively, of twenty-one years of age; and shall make in writing a statement of the number of jurors so apportioned to each township, and forthwith deliver the same to the sheriff, who, at the time of giving public notice of the general fall election, shall insert a clause in his notification, giving the trustees of the several townships notice of the number of persons to be returned for jurors therefrom, respectively.

Portion for each township to be selected by trustees.

SEC. 3. That the trustees of each township shall, on the day of such general election, annually, select, of good, judicious persons having the qualifications of an elector, and not exempt by law from serving as jurors, the proportion of persons designated in said notice to be returned for jurors therefrom, and shall make a list thereof and deliver the same to the trustee or judge of election, whose duty it shall be to return to said clerk of the court the poll-book of said election; and such trustee or judge of election (as the case may be) shall deliver said list to said clerk of the court at the same time he shall return said poll-book to such clerk.

Deficiencies to be supplied by order of court.

SEC. 4. That whenever in any county it shall appear that the whole number of jurors shall have been drawn from the box, or that a sufficient number of the names of jurors for the transaction of the business of the courts in said county for the unexpired portion of the year, shall not be remaining in the box, the judge of the court of common pleas of such county may, during term time, or in vacation, order such number of jurors as he may consider necessary, to be apportioned among the several townships in said county, as provided by section two, and the clerk of said court, after making such apportionment, shall cause a statement in writing of the number of jurors required of each township to be forthwith delivered to the sheriff of such county, who shall forthwith serve the same upon the trustees, and return it as a summons is served and returned. The trustees of the several townships shall, immediately on receiving such statement, proceed to select good, judicious persons having the qualifications of an elector, who were not selected at the previous fall election, to the number required of such township, and transmit a list of the persons so selected to the clerk of said court.

Drawing of grand and petit jurors by clerk.

SEC. 5. That said clerk of the court shall, within five days from the receipt of such lists, write the names of the persons so selected upon separate pieces of paper, and put them into a box to be by him at the expense of the county, provided, and securely kept for the purpose, and shall, at least thirty days previous to the sitting of the court of com-



mon pleas in such county, in the presence of the sheriff, (the sheriff having first shaken the box so as to mix the ballots on which the names are written), proceed to draw twenty-seven ballots, the persons named on the first fifteen of which shall be summoned as grand jurors, and those named on the remainder shall be summoned as petit jurors. And said clerk shall forthwith issue a *venire facias* to the sheriff, commanding him to summon the persons whose names were so drawn, to attend as jurors at the seat of justice of said county on the first day of the next term of the court of common pleas holden therein, at ten o'clock A. M.: Provided, that the several judges of the courts of common pleas may, by order made in vacation or term time, direct on what day of the term the petit jury shall appear, and the clerk shall issue a *venire facias* accordingly.

SEC. 6. That said clerk shall in like manner, at least thirty days before the sitting of the district court in any county, in the presence and by the aid of the sheriff as aforesaid, draw from said box the names of twelve persons, and forthwith deposit a list thereof in the office of the clerk of said district court, who shall immediately issue a *venire facias* to the sheriff, commanding him to summon the persons drawn as aforesaid to attend at the seat of justice of said county on the first day of the term of said district court next to be holden: Provided, if the clerk of the district court in any county shall be satisfied from inquiry, or his knowledge of the state of the docket, that a jury will not be required at any particular term of such district court, he may omit to issue a *venire facias* as aforesaid for such term.

Drawing of jurors for district court.

SEC. 7. That the sheriff, in either case, receiving such *venire facias*, shall, at least ten days before the sitting of said court, summon such persons by reading the same in their presence, or by leaving at their usual places of abode a note or memorandum substantially as follows, to wit: I am commanded to summon you ——— to appear before the ——— (insert the name of the court) to be holden in ———, on the ——— day of ———, A. D. ———, at ten o'clock A. M., to serve as a grand or petit juror, as the case may be; and shall indorse on the *venire facias* the names of the jurors and the time when summoned, and return the same to the clerk of said court on the first day of its session.

Sheriff to summon jurors ten days before sitting of court.

SEC. 8. That if any person selected as a grand or petit juror as aforesaid shall not, by reason of sickness, temporary absence from the county, or for any other reason, be summoned, or if summoned, shall be excused from serving at the term to which he is summoned, his name (unless he be exempt from serving as a juror by law) shall be returned to the box, and shall remain there until drawn out at some subsequent drawing; and whenever his name is again drawn he shall serve unless disabled or excused; and in case there should not, by reason of challenge or otherwise, be a sufficient number of jurors summoned as aforesaid present to make up the panel, whether of the grand or petit jury, or in case the array shall be challenged and set aside, the sheriff

Names of jurors excused to be returned to box.

Talesmen to be summoned in certain cases.

Special venire in certain cases.

shall summon a sufficient number of talesmen to make up the deficiency, except as hereinafter provided; and at the close of every term of the court the names of all persons who shall have served on either jury for such term, together with the names of those who are found permanently disabled, disqualified, or not liable to serve, shall be discharged: Provided, the court may in its discretion, in lieu of making up any deficiency as aforesaid in the grand jury by summoning talesmen, issue a special *venire facias* to the sheriff, commanding him to summon the persons therein named to attend forthwith to serve as grand jurors.

New jury, how supplied.

SEC. 9. That when, by reason of any pressure of business, or for any other reason, the court shall deem it necessary to have two petit juries, or when, by reason of sickness, the setting aside of an array, absence or otherwise, it becomes necessary to have a new petit jury, or a member or members to fill up the regular panel thereof for the term, then, upon the application of any party having a cause to be tried at such term, the names of such juror or jurors shall be drawn from the box by the clerk as in other cases, and a *venire facias* issued to summon them to appear as may be directed by the court.

Summoning of talesmen.

SEC. 10. That whenever it shall be necessary to summon a talesman or talesmen, either party may make an application to the court to issue a *venire facias*, and the court, when so requested, shall, as a matter of course, immediately issue the same, containing the names of as many discreet and suitable persons having the qualifications aforesaid as the court shall deem expedient, and commanding the sheriff forthwith to summon such persons to appear as the court may direct. And such *venire facias* shall not contain the name of any person known to be present in or about the court-house, when the same is issued, or such application made, unless both parties assent thereto.

Challenging of jurors for cause.

SEC. 11. That if there shall be impeached for the trial of any cause any petit juror who has been convicted of any crime which by law renders him disqualified to serve on a jury; or who has an interest in the cause; or who has an action depending between him and either party; or who has formerly been a juror in the same cause; or who is either party's employer, employe, counselor, agent, steward or attorney; or who is subpoenaed in good faith in the cause as a witness; or who is akin to either party or to his attorney; or who shall have served once already on a jury as a talesman in the trial of any cause in any court of record in the county within the preceding twelve months, he may be challenged for cause; and in either of said cases the same shall be considered as a principal challenge, and the validity thereof tried by the court: Provided, it shall be the duty of the court *sua sponte* to inquire of the jury, as often as the panel is filled, whether any of them have served as talesmen as aforesaid, and to excuse such as have, unless both parties of their own motion consent to their so sitting. And any petit juror who shall be returned for the trial of any cause, and against whom no principal cause of challenge can be alleged, may

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Challenging on suspicion of prejudice.

nevertheless be challenged on suspicion of prejudice against or partiality for either party, or for want of a competent knowledge of the English language, or any other cause that may render him at the time an unsuitable juror, and the validity of such challenge shall be determined by the court. And each party may peremptorily challenge two jurors.

SEC. 12. That a challenge to the array may be made, and the whole array set aside by the court, when the jury, grand or petit, shall not have been selected, drawn or summoned, or when the officer executing the *venire facias* shall not have proceeded as prescribed by law, or for the misnomer of a juror or jurors; but such challenge shall only be made before the jury is impaneled and sworn. And no indictment shall be quashed or set aside for any such irregularity or misnomer if the jurors finding the same possess in fact the required qualifications to act as jurors.

When the whole array may be challenged and set aside.

SEC. 13. That when the sheriff is interested in any cause in any court of record, the party in interest opposed to that of the sheriff may apply to the court, which, upon such application, shall direct a special *venire facias* to the coroner of the county, commanding him to summon a jury, having the qualifications hereinbefore prescribed, to try such cause; and where both the sheriff and coroner are interested as aforesaid, or in case of the death, resignation or absence from the county of both the sheriff and coroner, then, and in either of such cases, the process may be directed to such discreet, disinterested person as the court may name, and the service and return of such person shall be valid to all intents and purposes.

When special venire shall be directed to coroner.

SEC. 14. That any court of record in which any action is or shall be pending, and where it shall appear to the court to be proper that the jurors who are to try the issue therein should have a view of the messuages, lands or place in question, in order to their better understanding of the evidence that may be given on the trial, may order a special writ of *distringas* or *habeas corpora juratorum*, to issue, commanding the sheriff or other officer to whom directed to have the jurors at the place in question; who then and there shall have the matters in question shown to them by the two persons named in said writ to be appointed by the court; and the sheriff or other officer executing such writ shall, by special return on the same, make known the doings thereunder. The expenses of taking said view shall be taxed in the bill of costs, and no evidence shall be given on either side at the taking thereof: Provided, that in case no view shall be had, yet said trial shall proceed; and no objection shall be made by either party for want of a view, or for want of a proper return thereof.

Special writ for jurors to examine messuages, &c.

SEC. 15. That either party may demand a struck jury for the trial of an issue of fact in any cause pending in a court of record of any county, and when so doing he shall file with the clerk of the court of common pleas a precipe for such jury; and thereupon such clerk shall proceed to the office of the county auditor, and there take to his assistance the county

Precipe for a struck jury, and procedure thereon.

auditor and recorder in the selection of the list of names for such jury. And said three officers shall select from the qualified electors of the county the names of forty persons impartial between the parties, and who, from their intelligence and sound judgment, are believed to be well qualified to try such cause; and the auditor shall make and preserve in his office a list of the names of the persons so selected; and said clerk shall, without delay, give four days' notice to both parties, or their attorneys of record, of the time of striking such jury, furnishing to each at the same time a true copy of said list. And at the time designated the clerk shall attend at his office for the purpose of striking such jury, when the party demanding such jury, or his agent or attorney, shall strike off one name from the list, and the opposite party, his agent or attorney, another, and so on alternately until each shall have struck off twelve; and if either party shall fail or refuse to attend or strike in person or otherwise as aforesaid, the clerk shall strike for him. When twenty-four names shall have been stricken off as aforesaid, the clerk shall make a fair copy of the remaining sixteen names, certify them to be the list of the jurors struck for the trial of such cause, and deliver the same to the sheriff or other proper officer, together with the *venire facias*; and such officer shall annex the names therein contained to such *venire facias*, and summon the persons named as commanded. Upon the trial of the cause the jury so struck shall be called as they stand upon the panel, which order must be the same as that of the list at the time of striking the jury, and the first twelve of those who shall appear and are not challenged for cause, or set aside by the court, shall be the jury, and shall be sworn as such. But if a jury shall not be made from said sixteen jurors, the sheriff shall, under the direction of the court, fill up the panel from the bystanders, or on motion of either party the court shall select the persons to fill the panel, and issue a special *venire facias* returnable forthwith therefor.

Procedure in case of disqualification of clerk, auditor or recorder.

SEC. 16. That if either the clerk of the court, auditor or recorder aforesaid, shall be interested in the cause, or sick or absent from the county, or related to either of the parties, or do not stand indifferent between them, then, in every such case, either one of the judges entitled to hold such court may, in term time or vacation, appoint some judicious and disinterested individual to take the place of such officer so disqualified, in selecting and striking the jury, and to do and perform all things required to be done by such officer when acting in that behalf; but in no case shall it be necessary to strike such jury more than six days previous to the sitting of the court at which the case is to be tried, and three days' service of the *venire facias* shall be sufficient.

Parties requiring struck jury to pay costs thereof.

SEC. 17. That the party requiring such struck jury shall pay the fees for the striking, summoning, impauneling and qualifying the same, and a jury fee of eight dollars, and shall not have any allowance therefor in the taxation of costs, unless the court shall be of the opinion that the cause required such struck jury, in which case such extraordinary expenses shall be taxed in the bill of costs. And a jury

struck as aforesaid may be continued with the continuance of the cause, and be summoned as jurors for the trial thereof at a subsequent term, unless the court shall otherwise order, upon good cause shown: Provided, the provisions of this and the two preceding sections shall not extend to any trial where a party is entitled to challenge peremptorily more than two jurors.

SEC. 18. If any person, summoned as a juror, shall, without reasonable and lawful cause, to be judged of by the court, refuse to serve, he shall be fined in any sum not exceeding thirty dollars, as for a contempt of court. And if any juror, after being qualified, shall willfully refuse or neglect to obey or observe any order or injunction of the court, he may be fined as for contempt, in any sum, in its discretion, not exceeding one thousand dollars; and any fine so assessed may be collected by execution, and shall be paid into the county treasury and disbursed as other fines.

Penalty for refusing or neglecting to serve as juror.

SEC. 19. That no officer shall be allowed any compensation for services under this act, other than that allowed by law; and if any officer named in this act shall refuse or neglect to perform any of the duties herein required, according to the true intent and meaning hereof, he shall be deemed guilty of a misdemeanor, and on conviction thereof, before any court of competent jurisdiction, be fined in any sum not exceeding one hundred dollars: Provided, if the trustees of any township shall fail to return the names of jurors as herein required, to the clerk of the court, such clerk shall, on ascertaining such fact, immediately notify such trustees of such failure, and they shall thereupon meet, and select and return to said clerk, without delay, the requisite number of names as aforesaid; and the names so returned shall be placed in the box as if returned with the poll-books as aforesaid.

No compensation allowed not provided for, etc.

SEC. 20. That any person who shall serve as a juror, grand or petit, or both, in the courts of this state for three weeks in any year, shall be exempt from further service as a juror during the balance of such year; but nothing herein contained shall entitle any juror to be discharged from the grand jury during its session, or from a petit jury during the trial of a cause.

No person required to serve as juror more than three weeks in one year.

SEC. 21. That active members of fire-engine companies, hook-and-ladder companies, or other companies for the extinguishment of fires, during the time they may continue such active members, and all clergymen and priests, physicians, attorneys-at-law, and all public officers while in office, shall be exempt from serving on juries.

Persons exempt from serving on juries.

SEC. 22. That the following entitled acts, to wit: "An act relating to juries," (S. & C., 751); "An act to amend the act relating to juries," (Ibid., 757); "An act to amend an act entitled "An act relating to juries, passed February 9, 1831," (Ibid., 758); "An act supplementary to the act relating to juries, passed February 9, 1831," (Ibid., 759); "An act supplementary to the act relating to juries, passed February 9, 1831, and to amend the 9th section of said act," (Ibid., 760);

Acts repealed.

"An act relating to jurors," (Ibid.) ; "An act to provide for struck juries and to secure fairness and impartiality in their selection," (S. & S., 407) ; "An act to amend section eight of an act entitled "an act relating to juries," (Ibid., 409) ; "An act supplementary and amendatory to the act in relation to juries," (Ibid., 410) ; "An act to amend section three of an act entitled 'an act relating to juries,' passed February 9, 1831," (Ibid.) ; "An act to amend section four of an act entitled "an act relating to juries, passed February 9, 1831," (Ibid., 411) ; "An act supplementary to 'an act regulating juries,' passed February 9, 1831, (Ibid., 412) ; and "An act supplementary to an act passed April 17, 1867, entitled 'an act supplementary and amendatory to the act relating to juries,' (S. & C., 410), and to repeal section one of the act entitled 'an act supplementary to the act relating to juries,' passed February 9, 1831, and to amend the ninth section of said act, passed March 9, 1859, (S. & C., page 760;" O. L., vol. 66, p. 47), be and the same are hereby repealed.

SEC. 23. That this act shall take effect on its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed April 26, 1873.

## AN ACT

To amend section one of an act entitled an act to amend section one of an act passed and took effect April 13, 1865, (62 vol. Stat., 143, Swan & Sayler, 166), entitled an act to authorize companies incorporated under the laws of this State to hold personal and real property, and to carry on business beyond the limits of the State, passed May 1, 1871. (O. L., vol. 68, p. 97.)

Companies  
for mining,  
manufactur-  
ing, &c.,  
may hold  
necessary  
personal and  
real estate,  
&c.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That any company incorporated, or which may be incorporated under the laws of this state, for the purpose of mining or boring for petroleum or rock oil, or coal oil, salt or other vegetable or mineral fluid in the earth, or for refining and purifying the same, quarrying stone or marble or slate, mining coal, iron, copper, lead, or other minerals, or manufacturing the same, or for manufacturing cotton or woolen fabrics, in whole or in part, or both, and carrying on business connected with the main objects of such corporation, may, in its corporate name take, hold and convey in any county in this state, such real and personal estate as is necessary or convenient for the purpose for which it was incorporated, and upon causing its original certificate of incorporation to be recorded by the recorder of such county, may there

carry on its business or so much thereof as is convenient, and may also carry on its business or so much thereof as is convenient beyond the limits of this state, and may there hold any real or personal estate necessary or convenient for conducting the same.

SEC. 2. That said section one is hereby repealed.

SEC. 3. That this act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 26, 1873.

## AN ACT

To amend section five hundred and eight of an act entitled "An act for the organization and government of Municipal Corporations," passed May 7th, 1869.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section five hundred and eight of the act entitled "An act to provide for the organization and government of municipal corporations," passed May 7, 1869, be so amended as to read as follows :

Section 508. The power to appropriate may also be exercised for the purpose of operating or extending streets or alleys across railway tracks and lands held or owned by railway companies : Provided, such appropriation shall not unnecessarily interfere with the reasonable use of such road or land by the railway company. Said power may also be exercised where it is necessary to require the right of way to, or additional grounds for, the enlargement or improvement of the public works herein specified. And whenever material is required for the construction, improvement or repair of any such works, the corporate authorities are empowered to appropriate and take the same, and for this purpose they may go outside the corporate limits.

Power of appropriation for certain purposes.

SEC. 2. Said original section five hundred and eight is hereby repealed.

SEC. 3. This act shall be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 28, 1873.

## AN ACT

Supplementary to an act entitled "An act regulating incorporations in the nature of proceeding in quo warranto, and regulating the manner of proceeding therein," passed March 17, 1838. (S. & C., R. S., 1264.)

Correction of results declared in consequence of illegal votes, etc.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That whenever any court before which any information in the nature of quo warranto may be tried, shall find that at any election for a director or directors of a corporation, a number of illegal votes were cast and received and a number of legal votes were tendered and offered to be cast, but were rejected, or either thereof, sufficient to have changed the result of such election as declared thereat, it shall be the duty of the court to render judgment of ouster against the person or persons so declared to have been elected at such election, and also to render judgment of induction in favor of such person or persons as would have been entitled to be declared elected in case such illegal votes had not been received and the legal votes tendered and offered had been received; or, in case the same result would have followed, either from the non-reception of illegal votes, or the reception of legal votes refused as aforesaid.

Where new elections may be ordered.

SEC. 2. The court, in any case where judgment of ouster is rendered in case of a contested election, such as is specified in section one, shall have power, if in its judgment right and justice requires it, to order a new election to be held under their direction and by judges elected by them for that purpose; notice of the election to be given for the time, at the place and in all respects as required by the laws in force at the time, applicable to such corporation except as to the date of holding such election, which date it shall be the duty of such court to fix, and also the election and acting of judges of the election as above provided, and the mandate of the court shall become obligatory upon the corporation as soon as a duly certified copy thereof is served upon the secretary of said corporation in person or by copy left at the principal office of the company, and the court shall have power to enforce obedience to its said mandate by attachment as for contempt of court, and in such other manner as they may deem necessary to carry said mandate into execution.

Pending proceedings not affected hereby.

SEC. 3. This act shall take effect and be in force from and after its passage: Provided, that nothing in this act contained, shall relate to or in any way affect proceedings now pending or elections heretofore held; but all such proceedings shall be proceeded in, and all contested elections of corporate officers heretofore held shall be adjudged as if this act had not passed.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 28, 1873.



## AN ACT

To confer additional power on the Board of Public Works to regulate and collect tolls on the Western Reserve and Maumee road.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the board of public works shall have power to require the collection of toll from persons who may travel in wagons, carriages or other vehicles on wheels or runners between toll gates or between each terminus and the nearest gates thereto, on the Western Reserve and Maumee road, at the same rate per mile as may at the same time be charged for like travel on said road to persons traveling or hauling through the toll-gates thereon. And it shall be the duty of the superintendent in charge of said Western Reserve and Maumee road to see that all orders of the board of public works looking to the collection of toll for travel between gates on said road made in pursuance of law shall be strictly enforced.

Tolls for local travel on W. R. & M. road.

SEC. 2. It is hereby made the duty of each and every person traveling or hauling with team or teams between gates, or between each terminus of said road and the nearest gate thereto, in case the board of public works shall publish an order for the collection of such intermediate toll for travel or hauling between gates, to report within one week after the close of each month the number of trips made by their team or teams and the distance traveled each trip and the kind of vehicle and the number of horses attached thereto, to the keeper of the nearest toll-gate to the residence or principal place of business of such person, which statement shall be under oath or affirmation; and any person neglecting or refusing to make such report within the time prescribed, or within one week thereafter to pay the amount of toll by him or her due for such travel or hauling, shall be subject to pay a fine of ten dollars, to be recovered before any justice of the peace of the proper county, on complaint of the superintendent of said road, or any gate keeper on said road to whom it would be the duty of such person owing toll to report and pay such toll: Provided, that any such person or persons traveling between gates may compound and pay in advance, quarterly or yearly, unto the nearest gate-keeper, such sum or sums as said gate-keeper may consider a just and fair rate for such intended travel; and whenever such person or persons shall pay their intermediate toll in advance as herein provided, such person or persons shall not be required to report as required in this act.

Monthly reports required of travelers.

Penalty for neglect to report.

Compounding authorized.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 28, 1873.

## AN ACT

To repeal section sixty-one of an "Act to incorporate the State Bank of Ohio and other banking companies," passed and took effect February 24, 1845, (S. & C., p. 139,) and to repeal an act to restrain banks from taking usury, passed March 19, 1850, (S. & C., p. 149,) and to repeal section twenty-four of an act to authorize free banking, passed March 21, 1851, (S. & C., p. 172.)

Acts re-  
pealed.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section sixty-one of an act to incorporate the state bank of Ohio and other banking companies, passed and took effect February 24, 1845, and an act to restrain banks from taking usury, passed March 19, 1850, and also section twenty-four of an act to authorize free banking, passed March 21, 1851, be and the same are hereby repealed.

SEC. 2. This act shall take effect from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 28, 1873.

## AN ACT

To amend section thirty-three of an act entitled "An act further to provide for the government of the Longview Asylum," and amendatory and supplementary to an act entitled "An act to constitute the county of Hamilton a separate district for lunatic asylum purposes, and to provide for the erection and government of an asylum therein," passed and took effect Feb. 27, 1861.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section thirty-three of the above recited act be amended so as to read as follows:

Support of  
Longview  
Asylum.

Section 33. The said asylum shall be supported and salaries of its officers paid from a fund consisting of all such moneys as now are or hereafter may come into the treasury of the county from whatever sources applicable to the support of insane persons in said county, and of such appropriations as shall be made by the state for the support of said asylum, which appropriations shall bear the same proportion to the appropriations for the other lunatic asylums of the state as the population of Hamilton county bears to the population of the state, exclusive of Hamilton county, as ascertained by the federal census immediately preceding the making of such appropriations.

SEC. 2. That said section 33 be and the same is hereby repealed.

SEC. 3. This act shall take effect on its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 28, 1873.

## AN ACT

Supplementary to an act entitled an act to provide for the organization and government of Municipal Corporations, passed May 7th, 1869. (O. L., vol. 66, p. 149.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That in all cities of the first class, and cities of the second class having a population exceeding twenty thousand, one-half of the proportion of bridge tax levied by the county commissioners, collected upon property within such cities, in all cases where the city council shall demand it, shall be paid into the city treasury, and shall be expended by such cities for the purpose of building and repairing bridges within such cities respectively: Provided, this act shall also apply to all taxes levied for the year 1872, so far as the same are unexpended.

Bridge tax  
to be paid  
into city  
treasury in  
certain cases,  
&c.

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SEC. 2. This act shall take effect on its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 28, 1873.

## AN ACT

To amend section two of an act entitled "An act of the jurisdiction and procedure before Justices of the Peace, and of the duties of Constables in civil courts."

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section two of the above recited act be and is hereby amended so as to read as follows:

Section 2. Justices of the peace within and co-extensive with their respective counties shall have jurisdiction and authority—

Jurisdiction  
of justices in  
particular  
cases.

1. To administer an oath or affirmation, authorized or required by law to be administered.

2. To take the acknowledgments of deeds, mortgages and other instruments of writing.

3. To solemnize marriages.

4. To issue subpoenas for witnesses, and coerce their attendance in causes or matters pending before them, or other cause or matter wherein they may be required to take depositions.

5. To try the action for forcible entry and detention, or the detention only, of real property.

6. To proceed against security for costs, and bail for the stay of execution on their dockets.

7. To issue attachments and proceed against the goods and effects of debtors in certain cases.

8. To issue executions on judgments rendered by them.

9. To proceed against constables failing to make return, making false return, or failing to pay over money collected on execution issued by such justice.

10. To try the right of the claimant to property taken in execution or attachment.

11. To act in the absence of the probate judge in the trial of contested elections of justice of the peace.

12. To try actions against other justices of the peace for refusing or neglecting to pay over moneys collected in their official capacity, where the amount claimed does not exceed one hundred dollars.

In actions  
against other  
justices of  
the peace.

Provided, that nothing in this act shall be held to deny or impair any remedy now provided by law in such case by suit on the official bond of such justice of the peace, or by amercement or otherwise for such neglect or failure to pay over money collected as aforesaid.

SEC. 2. That section two of the act to which this is an amendment be and the same is hereby repealed.

SEC. 3. This act to take effect from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed April 28, 1873.

## AN ACT

To amend sections five and nine of "An act to regulate Insurance Companies doing an insurance business in the State of Ohio," passed April 27, 1872. (O. L., volume 69, page 140.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the original sections five and nine of the above recited act be amended to read as follows:

Section 5. The affairs of any company organized under this act, or organized under any of the laws or charters of this state, shall be managed by not more than twenty-one nor less than five directors, all of whom shall be members or stockholders. Within one month after the subscription book

Number of  
directors;  
their elec-  
tion, etc.

shall have been filed and the certificate of incorporation shall have been filed with the secretary of state, as the first and second sections of the act to which this is an amendment provide, a majority of subscribers shall hold a meeting for the election of directors. The number of votes to which each subscriber is entitled shall be—in mutual companies, one vote each, and in joint-stock companies, one vote for each share such subscriber may hold. The directors then elected shall continue in office until such time in the month of January thereafter as the by-laws of the company shall direct, and until others shall have been elected and qualified to succeed them in the trust, and shall have accepted the same. Mutual insurance companies, if they provide for it in their by-laws, may elect said directors for three years—one-third of such directors' term of office to expire annually; those receiving the highest number of votes at the first election to be elected respectively for the longest term.

Section 9. The annual meeting for the election of directors shall be held at such time in the month of January as the by-laws of the company may direct: Provided, however, that if for any cause the stockholders or members shall fail to elect directors at their annual meeting, they may hold a special meeting on some subsequent day for that purpose, by giving thirty days' notice previous thereof in some newspaper of general circulation in the county where the principal office of the company shall be kept; and the directors chosen at any such annual or special meeting shall continue in office, as provided in section five of this act, and until their successors shall have been duly elected and qualified.

Time of annual meeting.

SEC. 2. That the original sections five and nine be and the same are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 28, 1873.

## AN ACT

**Making appropriations for the relief of certain persons therein named.**

WHEREAS, A memorial was filed in the executive office by the trustees of the township of Newburgh, Cuyahoga county, Ohio, praying that the legislature be requested to make an appropriation on behalf of the families of certain persons killed when the Northern Lunatic Asylum was destroyed by

Recitation.

Appropriations to certain sufferers by the burning of N. O. L. Asylum.

fire, and to defray expenses of medical attendance, nursing, etc., for some who were severely injured but not killed; and in his annual message the Governor of Ohio recommended that the prayer of said memorial be granted; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the following sums be and the same are hereby appropriated out of any moneys belonging to the general revenue fund, to be paid out of the treasury according to law:

To pay to the widow of William R. Edwards, who was killed while endeavoring to save life and property at the burning of the Northern Lunatic Asylum, the sum of fifteen hundred dollars.

To pay the widow of Benjamin Burgess, who was killed while endeavoring to save life and property at the burning of said asylum, the sum of one thousand dollars, and to the mother of said Benjamin Burgess the sum of five hundred dollars.

To pay to James Crocker, for moneys expended by him in the care and burial of Isaac Herron, who was killed while endeavoring to save life and property at the burning of said asylum, the sum of one hundred dollars.

To pay to James H. Brown, for moneys expended in the care and burial of his son, Alfred Brown, who was killed while endeavoring to save life and property at the burning of said asylum, the sum of three hundred dollars.

To pay to Charles B. Lockwood, of Cleveland, Cuyahoga county, Ohio, to be by him paid to or for the benefit of Henry Schreiber, who was severely and permanently injured while endeavoring to save life and property at the burning of said asylum, the sum of six hundred dollars.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed April 28, 1873.

## AN ACT

Supplementary to an act entitled an act to prevent cruelty to animals, passed April 4, 1871. (68 Ohio Laws, page 54.)

Agents to prosecute acts of cruelty; their powers, etc

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That any person or persons who have been duly appointed by any duly incorporated association for the purpose of prosecuting acts of cruelty to dumb animals within this state, as the agent or agents of such incorporated association, shall have power to make arrest of any and all

persons found violating any of the provisions of the act to which this act is supplementary, for the protection of or to prevent cruelty to animals; and on making such arrest it shall be the duty of such agent to convey the person so arrested before some court or magistrate of and within the city or township wherein the offense was committed, and then forthwith make complaint on oath of the said offense: Provided, that all appointments by such associations under this section shall have the approval of the mayor of the city in which the association exists; and if such association exists outside any city, the appointments shall be approved by the probate court of the county; and said mayor or probate court shall keep a record of all such appointments.

SEC. 2. When complaint is made on oath or affirmation to any magistrate authorized to issue warrants in criminal cases, that the complainant believes that any of the provisions of law relating to or in any way affecting dumb animals are being or are about to be violated in any particular building or place, such magistrate shall issue and deliver immediately a warrant directed to any sheriff, constable, police officer or agent of any incorporated association mentioned in the first section of this act, authorizing him to enter and search such building or place, and to arrest any person or persons there present violating or attempting to violate any law relating to or in any way affecting dumb animals, and to bring such person or persons before some court or magistrate of competent jurisdiction, within the city or township within which such offense has been committed, to be dealt with according to law, and such attempt shall be held to be a violation of the first section of the act to which this act is supplementary, and shall, on conviction, subject the person charged therewith to the penalties provided in the sixth section thereof.

SEC. 3. Any officer, agent or member of any association mentioned in the first section of this act, shall have power lawfully to interfere to prevent the perpetration of any act of cruelty upon any dumb animal or creature in his presence, and may use such force as may be necessary to prevent the same, and to that end may summon to his aid any bystander. Any person who shall interfere with or obstruct such officer, agent or member in the discharge of such duty, shall be held guilty of a misdemeanor, and shall be subject to the penalties provided in the sixth section of the act to which this act is supplementary.

SEC. 4. In this act, and in every law of the state, relating to or affecting dumb animals, the singular shall include the plural, the word "animal" shall be held to include every living dumb creature; the words "torture," "torment," and "cruelty," shall be held to include every act, omission or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted, and the words "owner" and "person" shall be held to include corporations as well as individuals; and the knowledge and acts of agents of and persons employed by corporations in regard to animals transported, owned or employed by or in the custody of such

Duties of  
magistrates  
on complaint  
made.

Agents and  
members  
may inter-  
fere to pre-  
vent cruelty;  
penalty for  
obstructing  
such inter-  
ference.

Definitions  
of terms.

Disposition  
of fines col-  
lected.

corporation, shall be held to be the act and knowledge of such corporation.

SEC. 5. In all counties wherein such incorporated associations as are mentioned in the first section of this act shall exist, the fines and penalties mentioned in the sixth section of said original act shall be paid, on collection thereof, one-half to the treasurer of the county for the use of common schools, and the other half to the treasurer of such incorporated association, to be by him applied to defraying the incidental expenses thereof, anything in said sixth section to the contrary notwithstanding.

SEC. 6. This act shall take effect on its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

JACOB MUELIER,

*President of the Senate.*

Passed April 28, 1873.

*Supp Act.  
7-15*

## AN ACT

To authorize County Treasurers to pay out money to Township Treasurers, City Treasurers, Treasurers of incorporated Villages, and Treasurers of Boards of Education, in advance.

Semi-annual  
payments to  
township,  
city, village  
and school  
board treas-  
urers.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the treasurer of each county in this state shall, between the fifteenth and thirtieth days of December, and fifteenth and thirtieth days of June, annually, pay, upon the warrant of the county auditor, to each township treasurer, city treasurer, treasurer of incorporated village, and treasurer of each city or village board of education in his county, a sum equal, as near as may be, to two-thirds of the current collection of taxes assessed and collected for and in behalf of these several corporations, townships or boards, which shall be held and treated as advance payment in behalf of the several township, city, village and school funds.

County  
auditor to  
issue war-  
rant for such  
payments.

SEC. 2. That the county auditor of each county in this state shall, upon demand being made by the several township treasurers, city treasurers, treasurers of incorporated villages, and treasurers of school boards, issue his warrant upon the county treasurer in favor of such officers, for a sum as aforesaid of two thirds, as near as may be, of the current collections in behalf of said townships, cities, villages and school boards, specifying in said warrant the amount belonging to each of the several funds.



SEC. 3. The auditor and treasurer of each county shall keep a just and accurate account of the money paid to each township, city, village and school board, for final adjustment at the semi-annual and annual settlements with the same officers.

Just and accurate accounts must be kept.

SEC. 4. This act shall take effect from its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 29, 1873.

## AN ACT

Supplementary to an act entitled an act relating to Ditches, passed April 12, 1871. (O. L., vol. 68, p 60.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the county commissioners of any county in this state may, if in their opinion the public good requires it, at any regular or called session, estimate the amount necessary to complete any or all the ditches, drains and water courses that have been or may hereafter be established in their respective counties that have not been or may not be completed in accordance with the provisions of the fourteenth section of the act to which this is supplementary; and when such estimate is made, they are hereby authorized and empowered to issue their bonds to that amount, and borrow money for the purpose of completing the same, and for no other purpose. Said bonds shall bear a rate of interest not exceeding eight per cent. per annum, and shall not be sold for less than their par value, and shall be of denominations of not more than one hundred dollars each, redeemable at the discretion of the commissioners in not less than one year nor more than five years from the date of their issue. Said bonds shall be signed by the commissioners and countersigned by the auditor, who shall keep a true and accurate record thereof, in a separate book to be provided for that purpose, and shall furnish a transcript of said record to the county recorder, who shall also record the same in a separate book, and shall indorse on the back of said transcript a pertinent description of its contents, and the time when and the book and page where recorded, and shall then deliver said transcript to the prosecuting attorney, who shall compare it with the records on the books of said auditor and recorder, and make all necessary corrections, or if correct, shall so indorse on the back or margin thereof, and file the same in his office, or if he have no office, then in the office of the probate judge; and the books of said auditor and recorder, and the files of said attorney or judge, shall be open during all office hours for inspection, free of charge, and the recorder shall receive legal fees for his services herein.

Estimate of amount necessary to complete ditches, &c.

Issue of bonds therefor.

Record, &c., of bonds

Sale of delinquent work.

SEC. 2. Said commissioners shall, as soon as practicable, cause the auditor to sell said delinquent work, by first giving thirty days' notice thereof in some newspaper published in said county and having a general circulation therein, and also by posting printed bills in five of the most public places in the township in which said work is located, and in five of the most public places in the county seat of said county; said work to be sold at public outcry to the lowest responsible bidder or bidders, in sections of not more than eighty rods: Provided, that no section shall be sold for more than the estimated cost thereof; provided further, that if any township ditches, drains or water courses shall not be completed as within the meaning of the first section of this act, the trustees of said township may cert'y the same to the county auditor of their respective county, which delinquent work shall in all such cases be disposed of as provided for in section two of this act.

Amount of sales to be entered on duplicate.

SEC. 3. That as soon as sales shall have been completed to the satisfaction of said commissioners, the county auditor shall enter the amount of such sales upon the duplicate of the county in such assessments as may have been made against the tract or lot benefited by the opening of that portion of said ditch, drain or water course, in such installments as the commissioners may direct, together with eight per cent. interest, and the amount so entered shall be collected as other taxes, and applied in the redemption of said bonds.

Auditor to report amount of sales.

SEC. 4. The auditor shall include in his annual report all moneys received and paid out under the provisions of this act, and publish the same as other accounts.

SEC. 5. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 29, 1873.

## AN ACT

To amend an act entitled "An act to amend an act entitled an act to amend section one of an act passed February 10, 1857, amendatory to an act for the incorporation of townships," passed March 14, 1858, passed April 26, 1871. (Ohio Laws of 1871, page 84.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section one of the above recited act be amended so as to read as follows:

Section 1. That it shall be lawful for the boards of commissioners of the several counties within this state, to alter or change the boundaries of any township or townships, or partition any township or townships among other townships within their respective counties, by attaching a part of one township to another, or by dividing one township and attaching the parts to other townships, or by laying off and designating a new township from the territory of one or more townships of the same county, whenever it shall be made to appear necessary or expedient, by a petition for that purpose, signed by a majority of the householders residing within the bounds of the respective townships to be affected by such partition or division, or whenever they shall be petitioned so to do by two-thirds of the householders residing in the territory to be so altered, partitioned, divided or laid off into a new township: Provided, that at least thirty days' previous notice of such intended application shall be first given by advertisement at three public places within the bounds of the territory proposed to be partitioned, altered or changed; and the commissioners shall cause the boundaries of such township or townships so changed or altered, to be recorded in a book to be kept for that purpose, and shall give to every new township so laid off such appropriate name as they may think proper; provided, that no two townships in any county shall be incorporated by the same name. And whenever any boundary line between townships shall be in dispute, the commissioners of the county in which such townships are situated shall, upon application of the trustees of one of said townships, and upon notice in writing to the trustees of said township or townships, and on thirty days' public notice published in some newspaper published within the county, establish said boundary line, and make a record of the same in a book kept for that purpose.

Change of  
boundary or  
partition of  
township.

Adjustment  
of disputed  
boundaries.

SEC. 2. That said above recited act, passed April 26, 1871, be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 29, 1873.

## AN ACT

To amend section thirteen of an act entitled "An act to organize and regulate an Independent Militia," passed April 18, 1870. (O. L., volume 67, page 107.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section thirteen of the above entitled act be so amended as to read as follows:

Organization  
of batteries  
in artillery.

Section 13. That in the artillery arm, batteries shall be organized as follows: For a battery of two guns, one first and one second lieutenant, and not less than twenty-eight nor more than forty-three enlisted men; for a battery of four guns, one captain and one first and one second lieutenant, and not less than fifty-six nor more than eighty-six enlisted men; for a battery of six guns, one captain, one senior and one junior first lieutenant, one senior and one junior second lieutenant, and not less than one hundred and ten nor more than one hundred and thirty five enlisted men.

SEC. 2. That section thirteen of the above recited act be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 29, 1873.

## AN ACT

To create a Board of Fire Commissioners in cities having a population exceeding ninety thousand inhabitants.

Board of fire  
commission-  
ers in certain  
cities.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the management and control of fire departments, in cities of the first class having a population exceeding ninety thousand inhabitants, shall be vested in a board of fire commissioners, which shall consist of five members, to be appointed by the mayor, by and with the consent of the common council. They shall hold office for the term of five years, and the terms of office of those first appointed shall be for one year, for two years, for three years, for four years and for five years, so that thereafter there shall be one member appointed annually. The said commissioners shall be residents and freeholders in said cities of the first class, and all vacancies in the board resulting from any cause shall be filled by the mayor, by and with the consent of the common council, and the members of said board shall serve without compensation.

Regular and  
special meet-  
ings.

SEC. 2. The said board shall hold regular meetings at least twice each month, and oftener if deemed necessary by the chairman. Special meetings may be held on the call of any three members, and notice shall be served upon the members of all meetings, whether regular or special. A majority of the members shall be necessary to order the expenditure of money or to make any contract, and the vote upon the same shall be taken by yeas and nays, and entered upon the minutes. They shall cause accurate record to be

made of all their proceedings, which shall be received as evidence when certified to by the secretary. They shall have power to make such rules and regulations for the government of the department as may be found necessary, from time to time, which shall have the power and effect of ordinances, when approved by the common council.

SEC. 3. The said board shall have power to make all necessary repairs of houses, engines or other apparatus belonging to the department, and to contract, in the name of the city, for new houses or apparatus: Provided, that for all contracts exceeding one thousand dollars in amount, the approval of the common council shall first be obtained. No commissioner or other officer of the board shall be interested in the profits of any contract, and no officer or employe shall have power to incur any liability on account of said board, unless expressly authorized to do so at a meeting of the board. At least ten (10) days' notice shall be given in some newspaper of general circulation in such cities of the first class, of the reception of proposals for the performance of any contract exceeding one thousand dollars in amount, and said contract shall be awarded to the best and lowest bidder, who shall furnish satisfactory security for the performance of the same; and all contracts exceeding one thousand dollars in amount shall be subject to the approval of the common council as aforesaid.

Powers of  
board.

SEC. 4. The said board shall annually certify to the city auditor, at the time prescribed by law, the amount necessary to be levied on the grand duplicate for the support of the department for the ensuing year, and shall have no power to incur any liability on behalf of said cities of the first class beyond the amount so levied or appropriated to their order by the common council; and the purchase of any additional ground, building of any new house or apparatus, or the establishment of any new company, shall be made by the common council only upon the recommendation of said board. They shall have power to locate and build such fire cisterns and plugs as they may deem necessary for the better protection of the property of the city. All payments from the fire department funds shall be ordered at a meeting of the board, and shall be made by the treasurer of said city, upon the warrant of the city auditor, which shall be drawn in accordance with the order of the board and certified to in such manner as they may prescribe.

Necessary  
levy to be  
certified to  
auditor.  
Further  
powers and  
duties.

SEC. 5. The said board shall have power to appoint a chief engineer, who shall be the executive officer of the board, and have the active management of the department in service, and such number of assistants as they may deem necessary, whose terms of office shall be for three years and until their successors are appointed and qualified. They shall also appoint such other officers and employes as may be necessary for the efficient management of the department, who shall hold their positions until removed by death, resignation, or for causes hereinafter mentioned. They shall fix the salaries and prescribe the duties of all officers and members of the

Appoint-  
ment of chief  
engineer and  
other offi-  
cers.

department; and incompetency, inefficiency, permanent disability, insubordination, or violation of any of the rules and regulations of the board, shall be deemed cause for suspension or dismissal: Provided, however, that no change shall be made under this act in the present number of said fire department except for the causes herein stated. No officer or member shall be appointed or removed on account of his religious or political opinion, nor participate in the political campaigns or conventions of any political party whatever.

Board to  
have control  
of fire alarm  
telegraphs,  
&c.

SEC. 6. In such cities of the first class as aforesaid, where there now is or may hereafter be established a fire alarm telegraph attached to said fire department, the same shall be under the control and subject to the regulation of the said board of fire commissioners, and the chief engineer aforesaid shall, by virtue of his office, be the superintendent thereof. Such number of operators and other employes may be appointed by the said board as may be necessary for the management of said telegraph.

Powers and  
duties of en-  
gineers.

SEC. 7. The said chief and assistant engineers shall act as fire wardens, under direction of the board, and shall have power to enter and examine any building in which fire is used, and may condemn the same or order it rebuilt or repaired, if it be considered dangerous to the public safety. Whenever complaint is made of the dangerous condition of any building or part thereof, it shall be their duty to immediately examine into the same, and cause the proper measures to be taken to put it in a safe condition. They shall make prompt examination into the cause of every fire occurring within the city limits, and for this purpose are hereby authorized to issue process for, and compel the attendance of witnesses and the production of books and papers; to administer oaths and take testimony, the material points of which shall be carefully entered in a record to be kept for that purpose. They shall also examine into the condition of any building reported unsafe, or being erected in violation of law, and shall notify the owners thereof, if found unsafe, to rebuild the same, in default of which they may bring suit against the owners in any court having competent jurisdiction.

SEC. 8. That section sixty-one, as amended April 20, 1871, (O. L. vol. 68, p. 69,) of an act entitled an act to provide for the organization and government of municipal corporations, passed May 7, 1869, (O. L. vol. 66, p. 149,) is hereby declared not to affect cities to which this act is applicable; and all other acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and this act shall take effect from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed April 29, 1873.

## AN ACT

To amend an act entitled "An act to amend section eight of an act entitled 'an act for the prevention of Gambling,'" passed March 12th, 1831, passed April 10, 1868. (S. & S., page 377.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section eight of the above recited act be so amended as to read as follows:

Section 8. That if any person or persons shall keep or exhibit for gain any gambling table, (except billiard table,) or faro or keno bank, or any gaming device or machine of any kind or description, under any denomination or name whatsoever, or if any person or persons shall keep or exhibit any billiard table for the purpose of betting and gambling, or shall allow the same to be used for such purpose, or if any person shall act as "backer" or "capper," for any of the above mentioned games, or either directly or indirectly induce any other person or persons to play at or engage in the same, every such person so offending shall, on conviction thereof, be fined in any sum not less than fifty nor more than five hundred dollars, and be imprisoned in the county jail not less than ten nor more than ninety days, at the discretion of the court, for every such offense, and shall moreover find security for his or their good behavior as to a violation of the provisions of this act, for the period of one year, in the sum of five hundred dollars.

SEC. 2. That any person expending any money or thing of value, or incurring any obligation for the purchase or procuring of any hazard or chance, or any interest therein, in or on account of any game of faro, keno, or scheme for gambling as aforesaid, or any one dependent in any degree for support upon or entitled to the earnings of such person, or any citizen for the use of such one, shall have a right of action, in his or her own name, jointly or severally, against the person receiving such money, thing of value or obligation; and all persons whomsoever having any interest, direct or contingent, as "backers," "vendors," "cappers," or otherwise, in such receipt or transaction, or the profits or possible profits thereof, for the recovery of the amount or value of such money, thing of value or obligation, together with exemplary damages, which in no case shall be less than ten nor more than five hundred dollars. Suits may be commenced under this act by attachment; and where the amount recovered in a court of record is one hundred dollars or less, the plaintiff shall recover cost as in other cases.

SEC. 3. That for the payment of all fines and judgments assessed or obtained under this act against any person or persons, the personal property of every kind, without exemption, of such person or persons, shall be liable; and all real estate permitted or suffered by the owner knowingly to be used and occupied, in whole or in part, for the promotion or carrying on, in any manner whatever, of any game of faro,

Penalty for gambling, or aiding or abetting thereof.

Who shall have right of action against gamblers.

Personal property, buildings, etc., liable for fines.

Revised  
1872/30

Forfeiture  
of lease.

Liability of  
guardians,  
etc.

keno, or scheme for gambling as aforesaid, shall be liable for all fines and judgments assessed or obtained under this act against the owner or lessee thereof; and such fines and judgments shall operate as and be a lien thereon. And a violation by the lessee of any of the provisions of this act shall, at the option of the lessor, work a forfeiture absolutely of any lease of any real estate, or building situate thereon, and entitle the lessor to take immediate possession: Provided, if such real estate and buildings, or either of them, belonging to any minor, insane person or idiot, the guardian or guardians of such minor or minors, or insane person or idiot, who has control of such real estate and buildings, or either of them, knowingly permitting said real estate or building to be used for the purpose aforesaid, shall be liable for and account to such ward or wards, insane person or idiot, for all damages in consequence of the use and occupation of such real estate and buildings, and liabilities for such fines, damages and costs as aforesaid.

SEC. 4. That the above recited act be and the same is hereby repealed.

SEC. 5. This act shall take effect from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 29, 1873.

## AN ACT

To amend section six hundred and one of "An act to provide for the organization and government of Municipal Corporations," passed May 7, 1869.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section six hundred and one of "An act to provide for the organization and government of municipal corporations," be so amended as to read as follows:

Manner of  
assessing and  
collecting  
tax for im-  
provement,  
etc.

Section 601. The expense of opening, constructing, enlarging, excavating, improving, deepening or extending any canal, ship-channel or water course, whether such water course be navigable or otherwise, as authorized by this act, and whether the same be done for the purpose of navigation, or the prevention of overflow, or any other purpose, shall be assessed and collected in the manner pointed out in this chapter.

SEC. 2. Section six hundred and one of the above named act is hereby repealed.

SEC. 3. This act to be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 29, 1873.



## AN ACT

To authorize Towns and Villages to exchange lands donated for school purposes for other lands to be used for the same purpose.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That in any and all cases when any lot or lots of land lying within the limits of any town or village shall have been dedicated, given or granted to such town or village, and set apart for the use and support of schools, it shall be competent for the several courts of common pleas of this state, on application of the mayor or council of any village, where such lot or lots are situate, to authorize an exchange of such lot or lots for such other lot or lots within the limits of such village as the interest of the schools therein may seem to require. And all lots taken in exchange as aforesaid, shall be held for the same purposes and subject to the same conditions as the original lots dedicated, given or granted to said town or village for the use and support of schools.

Exchange of  
lots for  
school pur-  
poses author-  
ized.

SEC. 2. That every application for an exchange of lots as aforesaid, shall be by petition verified by the mayor, and the board of education of said town or village shall be made a party defendant, and such other persons as the court may order, and shall set forth an accurate description of each and all lots proposed to be given or taken in exchange, and shall set forth the specific circumstances which render such exchange necessary, and a prayer for such order as may be required.

Terms of ap-  
plication for  
exchange.

SEC. 3. That notice of the filing, pendency and prayer of such petition shall be published for four consecutive weeks, prior to the day of hearing, in some newspaper printed in such village, if there be any printed therein, and if there be not, in some newspaper printed in the county, and of general circulation in such village.

Notice there-  
of to be pub-  
lished.

SEC. 4. If upon the hearing of such petition it shall appear to the court that notice of the filing, pendency and prayer of such petition has been given as hereinbefore required, and that such an exchange of lots is necessary and will promote the interests of schools in such village, and that such an order would not be inconsistent with the terms and conditions of the original grant or devise, then the court shall authorize such exchange to be made, and order the mayor of such village to execute and deliver such deed or deeds in fee simple as may be necessary to effect such exchange.

Consumma-  
tion of the  
exchange.

SEC. 5. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 29, 1873.

## AN ACT

To authorize certain cities and incorporated villages in this state to take under their care and control so much of the National Road as lies within the corporate limits of said city or village.

Transfer of certain portions of national road to certain cities and villages.

Conditions.

Agreement to keep in repair to be filed with board of public works.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the council of any city or incorporated village within this state, through which the national road passes may, and they are hereby authorized to take under their care and control so much of the said road as passes through the corporate limits of such city or village, and use and occupy the same as a street or streets for such city or village. That where said road shall be so taken by such city or village, the same shall be kept in such repair at the proper costs and expenses of the city or village so taking possession thereof, as is contemplated by the act or acts of congress ceding to the state of Ohio the jurisdiction and control of such portion of said road as lies within this state: Provided, that if at any time in the opinion of the board of public works, any portion of said road so taken possession of by any city or village, is not kept in such repair, said board may in its discretion resume the control and management of said portion, and from that date the power given in this act to such city or village shall cease.

SEC. 2. Before exercising any such control over any such portion of said road as lies within its corporate limits, such city or village shall file with said board of public works an agreement in writing, binding itself to keep such road in such repair; which agreement shall be authorized by the council thereof, and signed by the president of such council.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 29, 1873.

## AN ACT

To authorize the construction of freight-ways across railroads and highways.

Freight-ways over or under railroads may be constructed.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That any person or persons owning or operating any coal or iron mine, stone quarry, rolling mill or machine shop within this state, and as a means of removing the product thereof, shall use, or desire to use, any railway, it shall be lawful for such person or persons to construct such railway, and to run cars thereon, over or under any railroad

or public highway in this state, the consent of the owner of the fee in the land at such crossing first having been obtained; Provided, such railway shall be so constructed as in no wise to impede or interfere with the running of cars or the travel upon, or in any manner to injure or impair such railroad or highway, or any switch, building or appurtenance connected therewith or belonging thereto; and, provided, that when such freight-way shall be constructed over any such railroad, it shall be at the height of at least eighteen and one-half feet in the clear, above the rails of the same.

SEC. 2. That before any person or persons shall construct any railway across any railroad as aforesaid, he or they shall submit the plan of construction to the commissioner of railroads and telegraphs, and obtain his approval thereof, whose duty it shall be, at the cost of such person or persons, for traveling expenses or otherwise, to see that said construction shall, in all respects, conform to the requirements of this act.

SEC. 3. That this act shall take effect on its passage.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed May 1st, 1873.

Plan to be submitted to commissioner of railroads, &c.

## AN ACT

For the reorganization and maintenance of Common Schools.

### CHAPTER I.

*Supp Act, 72: 82*

#### CLASSIFICATION OF SCHOOL DISTRICTS.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the state is hereby divided into school districts, to be styled respectively city districts of the first class, city districts of the second class, village districts, special districts, and township districts.

Different kinds of school districts.

SEC. 2. Each city having a population of ten thousand or more by the census of 1870, including the territory attached to it for school purposes, and excluding any territory within its corporate limits detached for school purposes, is hereby constituted a school district to be styled a city district of the first class.

What constitutes a city district of the first class.

SEC. 3. Each city of the second class, having a population of less than ten thousand inhabitants by the census of 1870, including the territory attached to it for school purposes, and excluding the territory within its corporate limits detached for school purposes, is hereby constituted a school district to be styled a city district of the second class.

What constitutes a city district of the second class.

SEC. 4. Each incorporated village, including the territory attached to it for school purposes, and excluding the territory

Village districts.

within its corporate limits detached for school purposes, is hereby constituted a school district to be styled a village district.

Municipal corporations hereafter created or advanced to be school districts as above provided.

All other school districts to be styled *special districts*.

Every organized township constitutes a township district.

Sub-districts of townships remain as heretofore.

SEC. 5. Municipal corporations hereafter created or advanced to a higher grade, shall, from and after their creation and advancement, be school districts corresponding to their grade as above provided.

SEC. 6. Any school district now existing, other than those mentioned in the second, third, fourth and seventh sections of this act, which has been established by a vote of the people in accordance with any act of the general assembly, or which has been established by a general or local act of the general assembly, is hereby constituted a school district to be styled a special district.

SEC. 7. Each and every organized township, exclusive of any of its territory included in any city, village, or special district, shall constitute a school district to be styled a township district.

SEC. 8. The several sub-districts and joint sub districts now existing within any township district shall continue, according to their respective boundaries, to be sub-districts or joint sub-districts thereof, subject to the provisions of this act.

## CHAPTER II.

### CITY SCHOOL DISTRICTS OF THE FIRST CLASS.

Number of members of boards of education in city districts of the first class.

Members of the board to be electors of the district.

Board of education authorized to determine whether there shall be two members for each ward.

How chosen and length of term.

Board of education shall investigate and adjust limits of districts.

SEC. 9. The board of education of each city district of the first class shall consist of as many members as the city has wards, provided such district, at the time of the passage of this act, shall be organized under a general or local act requiring said board to be so constituted; otherwise the said board shall consist of twice as many members as the city has wards. The members of the board of education in a city district of the first class shall be residents of the district, and have the qualifications of electors therein.

SEC. 10. The board of education of any city district of the first class, consisting of one member for each ward, are hereby empowered to decide by a vote of a majority of the members of said board, that said board shall consist of twice as many members as the city has wards; and in case said board shall so decide, they shall proceed to choose one member for each ward, who shall be residents of the district, and the members shall hold their office until the next annual election, and until their successors are elected and qualified; and thereafter one member of the board of education shall be elected annually for each ward, as provided in section eleven of this act. And it shall be the duty of said board, as soon as they are organized under the provisions of this act, to ascertain whether the corporate limits are co-extensive with the limits of the said school district; and in case said school district includes territory without the corporate limits, then said board is hereby required to make or cause to be made a plat of said territory so attached for school purposes, designating thereon

by metes and bounds the ward or wards to which said territory for school purposes is to be thereafter attached; which plat is to be recorded as a part of the proceedings of said board.

**SEC. 11.** At every annual election of city officers in each city constituted a city district of the first class by this act, there shall be elected in each ward of said city by the qualified electors thereof, one judicious and competent person to serve as a member of the board of education of such city district for two years from the third Monday in April succeeding his election, and until his successor shall be elected and qualified; Provided, that any elector residing in the city district, but not in any ward of the city, shall be entitled to vote in the ward to which he is attached by the board of education for school purposes, and that any elector residing in the city, but not in the city district, shall not be entitled to vote at any election provided for in this section; provided further, that in each city district of the first class, in which the board of education consists of as many members as the city has wards, the election of members of the board of education in each ward shall be biennial; the election in wards designated by odd numbers shall be in a year designated by an odd number, and the election in wards designated by even numbers shall be in a year designated by an even number.

**SEC. 12.** It shall be the duty of the judges and clerks of city elections, in the wards to which any territory beyond the city limits has been attached by the board of education for school purposes to have two separate ballot-boxes and two sets of poll-books. The electors residing on such attached territory are hereby authorized to vote at all regular and special elections of such wards when members of the board of education are to be elected, provided, however, that such electors are to vote only for members of the board of education; and the judges of said elections in such wards are hereby required to receive the ballots of the electors so residing on such attached territory, and deposit them in the ballot-box so provided for that purpose; and it is hereby made the duty of the clerks of said election to enter upon the separate poll-books provided for that purpose the names of such electors so voting for the members of the board of education. Said judges and clerks shall make due returns of such elections as provided by section thirteen of this act.

**SEC. 13.** The election provided for in section eleven shall be conducted by the judges and clerks of the city elections, and they shall make returns of such election to the board of education within five days from the time of holding such election.

**SEC. 14.** The board of education shall hold regular meetings once every two weeks, and such special meetings as they may deem necessary; they shall have power to fill all vacancies that may occur in their own body until the next annual election; and shall have power to make such rules and regulations for their own government as they may deem necessary; provided such rules and regulations are consistent with the constitution and laws of the state.

Where there are two members to each ward, how elected

Terms of office

Electors in any ward where to vote.

Electors of the city but not of the district, where to vote.

Where there is one member for each ward, how elected.

Separate ballot-boxes and poll-books to be provided for electors residing outside of city limits, &c.

Elections under sec. 11, how conducted and returns made.

Boards of education to hold regular meetings, &c.

Power to make rules and regulations.

First election of  
certain city dis-  
tricts, how held.

SEC. 15. A city district of the first class, having a population of less than twenty thousand inhabitants by the census of 1870, for the first time electing members of the board of education by wards, shall, at the first municipal election after the passage of this act, elect such members in the manner following: The qualified electors, resident in such district, shall, in the manner provided in section eleven of this act, elect one member of the board of education for each ward of said city, who shall serve for one year, and until his successor is elected and qualified, and one member who shall serve for two years as aforesaid, which time of service shall be respectively written or printed on each ballot cast; and annually thereafter there shall be elected in said city one member of the board of education for each ward, who shall serve for two years, and until his successor is elected and qualified.

### CHAPTER III.

#### CITY DISTRICTS OF THE SECOND CLASS AND VILLAGE DISTRICTS.

Number of  
members of  
board of educa-  
tion of city dis-  
tricts of the  
second class.

SEC. 16. The board of education of each city district of the second class, and of each village district, shall consist of three or six persons, as hereinafter provided, who shall be residents of the city district or village district, as the case may be, and who shall have the qualifications of electors therein.

Of how many  
members the  
board shall  
consist.

SEC. 17. The board of education of each city district of the second class, and of each village district, shall consist of three members, provided such district at the time of the passage of this act is organized under a general or local act requiring said board to be so constituted; otherwise the said board shall consist of six members: Provided, that the board of education of each city district of the second class are hereby empowered to decide by a vote of a majority of the members of said board, that said board shall consist of as many members as the city has wards.

Members of  
the board of  
education, how  
elected.

SEC. 18. On the first Monday in April, annually, there shall be held between the hours of six o'clock in the forenoon and six o'clock in the afternoon, at the usual place of holding school meetings in each city district of the second class and in each village district, a meeting of the qualified electors resident within the limits of the district, who, when assembled, shall organize by the appointment of a chairman and secretary, and shall then choose by ballot, two competent and judicious persons, to serve as members of the board of education for the term of three years from the third Monday of April, succeeding their election, and until their successors are elected and qualified; provided, that in case the board of education consists of three members, one person shall be elected to serve as aforesaid; provided that in case the board of education of a city district of the second class decide that said board of education shall consist of as many members as the city has wards, there shall be elected biennially in each ward as provided in the eleventh, twelfth and thirteen sec-

Elections in  
cases where as  
many members  
are to be elect-  
ed as there  
are wards.

tions of this act, one competent and judicious person to serve as a member of the board of education for the term of two years from the second Monday succeeding his election, and until his successor is elected and qualified; provided further, that at the first election held under this act one person shall be elected for each ward designated by an odd number, who shall serve for one year or until his successor is elected and qualified.

SEC. 19. The clerk of the board of education of each city district of the second class, and of each village district, shall publish a notice of the meeting provided for in the preceding section, in a newspaper of general circulation in the district, or post written notices of such meeting in five of the most public places in the district, at least ten days before the holding of the same, in which notice or notices the time and place of the meeting and the number of members to be elected shall be specified.

Notice of meeting, how given.

SEC. 20. The secretary of the meeting or clerks of the election provided for in section eighteen of this act, shall keep a poll-book, and tally sheet, and shall return within five days after the election, to the clerk of the board of education of the district, said poll-book and tally-sheet duly certified.

Secretary to keep poll-book and tally-sheet.

SEC. 21. Whenever the electors of any city district of the second class, or any village district, whose board of education consists of three members, desire that said board shall consist of six members, they may make such change in the manner following: Written or printed notices shall be posted in at least five of the most public places in such district, signed by a majority of the members of the board of education, or by one member of said board and at least ten resident electors of such district, requesting the qualified electors of such district to assemble on a day and at an hour and place designated in said notices, which notices shall be posted at least ten days prior to the day designated in them, then and there to vote for or against such change. The electors assembled at the time and place designated in said notices, shall appoint a chairman and two clerks, who shall be judges of said election. The electors in favor of the proposed change shall have written or printed upon their ballots the words "Board—Change," and those opposed thereto the words "Board—No Change," and the ballots so cast shall determine the question whether the said change shall be made. Said judges shall make due return of said election to the board of education of said district, within ten days after the holding of the same; and if a majority of the votes cast shall be found to be in favor of said change, three additional members of said board of education shall be chosen at the next annual election of school officers, one to serve for one year, one for two years, one for three years, and annually thereafter two members of the board of education of such district shall be chosen to serve for three years, as provided in section eighteen of this act.

Certain boards of education may change from three to six members.

Election, how held.

## CHAPTER IV.

## SPECIAL DISTRICTS.

Boards of education shall consist of three members.

How elected.

How long polls to be kept open

Election, how conducted.

Organization of special school districts how abandoned.

School funds to be transferred to custody of the township board.

SEC. 22. The board of education of each special district shall consist of three members, who shall be residents of the district and have the qualifications of electors therein.

SEC. 23. There shall be elected annually, by ballot, on the second Monday in April, between the hours of one and four o'clock P. M., in each special district, by the qualified electors thereof, at the usual time and place of holding school elections in such district, one judicious and competent person to serve as member of the board of education for three years from the first Monday succeeding his election, and until his successor is elected and qualified.

SEC. 24. The election provided for in the preceding section shall not continue for a less time than two hours, nor close before four o'clock P. M. The election shall proceed in the same manner as is provided for in section eighteen of this act.

SEC. 25. Whenever the electors of any special district desire to abandon their organization, and become a part of the township district of the township in which such special district is located, they may make such change in the manner following: Written or printed notices shall be posted in at least five of the most public places in said special district, signed by a majority of the members of the board of education, or one of the board and at least six resident electors of such special district, requesting the qualified electors thereof to assemble on a day and at an hour and place designated in said notices, which notices shall be posted at least ten days prior to the day designated in them, then and there to vote for or against said change. The electors assembled at the time and place designated in said notices, shall appoint a chairman and two clerks, who shall be judges of said election, which shall continue for at least two hours, and shall not close before four o'clock P. M. The electors in favor of the proposed change, shall have written or printed upon their ballots the words, "School—Change," and those opposed thereto, the words, "School—No Change;" and a majority of the ballots so cast shall determine the question whether said change shall be made. Said judges shall make due return of such election to the board of education of said special district within five days after holding the same; and if a majority of the votes cast shall be found to be in favor of said change, said special district board shall immediately certify this fact to the proper township board, who shall at once assume jurisdiction of all the territory of said special district as a part of the township district, when said special district shall cease to exist; and it is hereby made the duty of all officers of said special district, having custody of any of its school funds or property, to transfer said custody to said township board; and the offices of said officers, so surrendering their trusts, are hereby abolished, so far as the same may relate to the special district so ceasing to exist;



provided, that the members of the board of education of said special district shall be local directors of the sub-district so created, each to serve the remainder of the term for which he shall have been elected to said special district board.

Members of board to be local directors.

## CHAPTER V.

### TOWNSHIP DISTRICTS.

SEC. 26. The board of education of each township district shall consist of the township clerk and the local directors who have been appointed clerks of the sub-districts in said township; provided that the board of education of a township district, which is not divided into sub-districts, shall consist of the township clerk and the local directors of the district; and the board of education of a township district which is composed of not more than two sub-districts, shall consist of the township clerk and the local directors of the two sub-districts. The clerk of the township shall be clerk of the board, but shall not be entitled to a vote.

Board of education of whom composed.

SEC. 27. There shall be elected by ballot on the second Monday of April annually in each sub-district, one competent person having the qualifications of an elector therein to be styled local director, who shall hold his office for three years from the first Monday succeeding his election and until his successor is elected and qualified. Said local director, within five days after his election, shall take an oath or affirmation to support the constitution of the United States and that of the state of Ohio, and faithfully and impartially to discharge the duties of his office, which oath or affirmation may be administered by any local director of any sub district of the township, or by the clerk thereof.

Township clerk to be clerk of board.

Local directors how elected.

Must take oath of office within five days.

SEC. 28. The election required to be held in a sub-district, shall be at a meeting held at the usual place of holding school meetings in such sub-district or township district which is not divided into sub-districts. The meeting shall be organized by appointing a chairman and a secretary who shall act as judges of the election. The secretary shall keep a poll-book and tally sheet, which shall be signed by the judges and delivered within five days to the clerk of the township. It shall be the duty of the local directors, two of whom shall constitute a quorum, to meet within five days after the second Monday of April of each year, at such place as may be most convenient in the sub-district, and organize by appointing one of their number clerk of the sub district, who shall preside at the official meetings of the local directors, and record their proceedings in a book provided for that purpose, together with the minutes of the proceedings of the annual school meetings held in the sub district by the qualified electors thereof, which shall be a public record; and all such proceedings when so recorded, shall be signed by the clerk of the proper sub-district. The local directors may meet as frequently as they may think necessary for the transaction of business, and fill any vacancies in the office

Election to be held in sub-districts to be at the usual place of holding school meetings.

Clerk, how elected and his duties.

Local directors  
to be notified of  
all business  
meetings.

of clerk which may occur in the sub-district; or in case of his absence either of the other directors may officiate temporarily in his place: Provided, that no business shall be transacted at a meeting, due notice of which has not been given to each of the local directors of the sub-district, either personally or by a written notice left at his residence or usual place of business.

Board of educa-  
tion to organize  
annually.

SEC. 29. The board of education of each township shall organize on the third Monday of April of each year by appointing one of their number president, and in case of absence of the township clerk, who shall be ex-officio clerk of the board, by also appointing one of their number clerk pro tempore, who shall record their proceedings in a book provided for the purpose, which shall be a public record; and all such proceedings when so recorded shall be signed by the clerk and president.

Township clerk  
ex-officio clerk  
of the board.

Special meeting  
of electors.

SEC. 30. If the qualified electors of any sub-district shall fail to meet and elect a local director on the second Monday of April in any one year, as prescribed in section twenty-seven of this act, or if at any time a vacancy shall occur in the board of local directors, it shall be lawful for any three qualified electors of such sub-district to call a special meeting of the electors of such sub-district within ten days after such failure to elect, or the occurrence of such vacancy, for the purpose of electing a local director on first giving five days notice in writing of the time and place of holding such meeting by posting the same in three of the most public places in such sub-district, and the local director so elected at such special meeting shall hold his office for the unexpired term to be filled, and until his successor is elected and qualified, and if there shall be a failure to hold such general or special election, as provided for in this section, then it shall be the duty of the township clerk to appoint some suitable resident of said sub-district to act as local director until the next election and until his successor is elected and qualified.

Vacancies, how  
filled, after fail-  
ure to elect.

Regular ses-  
sions of town-  
ship boards

SEC. 31. It shall be the duty of the township board of education to hold regular sessions on the third Monday of April and on the third Monday of September in each year, in the usual place of holding township elections, or at such place in the immediate neighborhood as may be convenient for the transaction of any business which may be necessary in relation to any one of the schools of the township district, with power to adjourn from time to time, or to hold special meetings at any other time and place within the township as they may think desirable for the transaction of business as aforesaid; which special meetings may be called by the township clerk, by the president of the board or by two or more members of the board, each member of the board being duly notified personally or by a written notice left at his residence or usual place of business; and at all such meeting, in case of the absence of the township clerk, they may appoint one of their own number to serve temporarily as clerk, and no contract shall be binding upon any board of education unless such contract shall have been made or authorized to be made at a regular or special meeting of said board.

Have power to  
adjourn or hold  
special meet-  
ings.

Spec'l meet-  
ings, how  
called.

Contracts must  
be made at a  
regular meet-  
ing.

SEC. 32. The said board shall prepare or cause to be prepared a map of their township as often as they may deem necessary, on which shall be designated the sub-districts of the township which they may change or alter at any regular session, and the number assigned to each ; but no sub-district shall contain less than sixty resident scholars by enumeration, except in cases where in the opinion of the board it is necessary to reduce the number. Whenever the board of education of any township district shall consolidate two or more sub-districts to form a new sub district, said board shall call a special meeting of the qualified electors resident in said new sub-district, for the purpose of electing three local directors for the same. At least five days before the time fixed for said meeting, said board shall post up in three of the most public places in said new sub-district written or printed notices, stating the time, place and object of holding said meeting. The election at such special meeting shall be conducted as provided in sections twenty seven and twenty-eight of this act ; provided, that three local directors shall be elected, one to serve for one year, one to serve for two years and one to serve for three years from the annual election next preceding the organization of said new sub district ; and that the terms of office of the local directors of the sub-districts so consolidated shall expire at the time such new sub-district shall have been created.

Map of township.

Board may alter sub-districts.

Size of sub-districts.

Consolidation of sub-districts.

Local directors, how elected.

SEC. 33. It shall be the duty of the local director, who has been elected clerk in each sub-district to take or cause to be taken annually, according to the provisions of section seventy-seven of this act, between the first and third Mondays of September, an enumeration of youth resident within such sub-district, and return a certified copy thereof to the clerk of the said township district, and in case any such local director shall fail to take and return the enumeration in his sub district, it shall be the duty of the township clerk to employ a competent person to take the same and allow him a reasonable compensation for his services, and to proceed to recover the amount so paid for such services in a civil action before any court having jurisdiction in the name of the state of Ohio against said local director ; and in such suits said clerk shall be a competent witness ; and the money so collected shall be applied to the use of common schools in the proper township ; provided, that in a township district in which there is but one sub-district the president of the board shall be required to take or cause to be taken the enumeration, as aforesaid, and to return the same to the township clerk.

Enumeration of youth.

In case of failure, township clerk to employ a person to take enumeration.

SEC. 34. That whenever the better accommodation of scholars makes it desirable to form a sub-district composed of parts of two or more adjoining townships, by mutual agreement between the boards of education of such townships respectively, a transfer of territory for school purposes may be made to the township in which the school house of such joint sub-district is or may be situated ; and the qualified electors resident within such joint sub-district so composed shall, at the same time and in the same manner as school elections

Joint sub-district, how formed.

Local directors  
of joint sub-  
districts.

are held in other sub-districts, proceed to elect three local directors, one for the term of one year, one for the term of two years and one for the term of three years, who shall have the same powers, perform the same duties and be subject to the same penalties as local directors in sub districts; provided, that in taking the enumeration of youth, it shall be the duty of the local director who has been elected clerk in said joint sub-district to return a certified copy of such enumeration to the clerk of the township in which the school house is or may be situated, designating in each case the number of youth, male and female, residing in the respective parts of the several townships so united.

Enumeration of  
how taken.

School controll-  
ed by board of  
education of  
township in  
which the  
school-house  
is situated.

SEC. 35. The school in such joint sub-district shall be under the control of the board of education of the township in which the school house is situated, of which board the local director who has been elected clerk of said joint sub-district shall be a member; but such school shall be supported from the school funds, of the respective townships having territory in said joint sub-district in proportion to the enumeration of youth; and the board of education having charge of said joint school, shall make the proper estimates of the share of expenses, estimated pro rata by enumeration of every kind necessary to sustain it, to be paid by each of the said townships so united, and shall certify such estimates to the auditor of the proper county, who shall add the same to the annual estimates for school purposes made and certified by the boards of education of said townships respectively, and shall assess and collect the same as parts of such township estimates; and at the time of distributing the school funds, the county auditor shall transfer from the adjoining townships the amount assessed and collected for the support of said joint school to the township having control of said joint school, and certify to the clerk and treasurer of such township the amount due to the same, including state tax, sale or rent of school lands, township tax, or from other sources.

Joint district  
how changed or  
dissolved.

SEC. 36. No joint sub-district, composed of the fractional parts of two or more townships which is now organized, or may hereafter be organized, shall be dissolved, changed or altered, unless by the concurrent action of the boards of education of the several townships which may have territory included in such sub-district. In all cases where any parts of such joint sub-district shall be in more than one county, the enumeration shall be made for each fraction, as provided in the seventy-seventh section of this act, and the assessment shall be made for each fraction as provided in section thirty-five of this act, but returns of such assessment of taxes and enumeration of youth shall be made to the county auditor of the several counties interested, of the amount belonging to such counties respectively, to be collected as above provided, and when so collected the amount shall be certified by each county auditor to the clerk and treasurer of the township or school district having control of said school, and the amount shall be paid to the treasurer of such township or school district by each county respectively.

Returns of as-  
sessment and  
enumeration,  
how made.

*Alameda*  
*72-1*

## CHAPTER VI.

## PROVISIONS APPLYING TO ALL SCHOOL DISTRICTS.

SEC. 37. The several boards of education of all school districts now organized and established, and all school districts organized under the provisions of this act, shall be and they are hereby declared to be bodies politic and corporate, and as such capable of suing and being sued, contracting and being contracted with, acquiring, holding, possessing and disposing of property, both real and personal, and taking and holding in trust for the use and benefit of such districts any grant or devise of land, and any donation or bequest of money or other personal property; and of exercising such other powers and having such other privileges as are conferred by this act; provided, that whenever any board of education shall dispose of any property, real or personal, held by said board in their corporate capacity, exceeding in value three hundred dollars, said board shall sell the same at public auction after giving at least thirty days' notice thereof by publication in some newspaper of general circulation or by posting notices in five of the most public places in the district to which such property belongs.

Boards of education; powers and duties.

SEC. 38. All conveyances made by a board of education shall be executed by the president and clerk thereof; and it shall be unlawful for any member of such board to have any pecuniary interest either direct or indirect in any contract of said board, or to be employed in any manner for compensation by the board of which he is a member except as clerk.

Conveyances, how executed.

Members of board not to have pecuniary interest in contracts.

SEC. 39. All property real or personal, which has heretofore vested in and is now held by any board of education, or town or city council, for the use of public or common schools in any district, is hereby vested in the board of education provided for in this act, having under this act jurisdiction and control of the schools in such district.

Power of board to hold real estate.

SEC. 40. A part or the whole of any school district may be transferred to an adjoining school district by the mutual consent of the boards of education having control of such districts; provided, that no such transfer shall take effect until a statement or map showing the boundaries of the territory transferred shall be entered upon the records of such boards, nor (except when the transfer is for the purpose of forming a joint sub-district,) until a copy of such statement or map, certified by the clerk of the board making the transfer, shall be filed with the auditor of the county in which the transferred territory is situated, and any person living within a district or the part of the district so transferred shall have the right to appeal to the county commissioners as provided for in section fifty-nine of this act.

Transfer of territory for school purposes. Right of appeal.

SEC. 41. Each board of education organized under any existing law, except township boards, shall reorganize on the third Monday of April after the passage of this act, and by vote or lot diminish the number of members, or by appointment increase the number, and determine, by vote or lot, the

Organization of board of education.

time each member of the board shall serve, so as to constitute the said board in strict accordance with the provisions of this act.

Oath of office.

SEC. 42. Each person elected as a member of a board of education or elected or appointed to any other office under this act, shall, before entering upon the duties of his office take an oath or affirmation, to support the constitution of the United States and of the state of Ohio, and that he will faithfully perform the duties of his office. The oath or affirmation may be administered by the clerk or any member of the board. A majority of the board of education shall constitute a quorum for the transaction of business: Provided, that upon a motion to adopt a resolution authorizing the purchase or sale of property, either real or personal, upon a motion to employ a superintendent, teacher, janitor or other officer, or upon a motion to pay any debt or claim, it shall be the duty of the clerk of said board to call publicly, the roll of all the members composing the same, and to enter on the record authorized to be kept, the names of those voting "aye," and the names of those voting "no," and if a majority of all the members of said board shall have voted aye, then the president shall declare the motion carried, and upon any motion or resolution any member of said board may demand the yeas and nays, and thereupon the clerk of said board shall call the roll and record the names of those voting aye and those voting no. The proceedings of each board of education shall be kept in a book provided for that purpose, and shall be open to the inspection of any resident of the district, or other persons having a legal or official interest in such proceedings.

Majority to constitute a quorum.

Vote by yeas and nays, on purchase of property, &c.

Record how kept.

Tie vote.

Vacancies.

Vacancy in township board.

Annual organization.

Clerks and treasurers of school districts.

SEC. 43. In all cases of tie votes, at any election for members of the board, the judges of election shall decide the election by lot, and in other cases of failure to elect, or in case of a refusal to serve, the board shall appoint. All vacancies in any board of education arising from death, non-residence, resignation, expulsion, gross neglect of duty, failure of a person elected or appointed to qualify within ten days after the annual organization, or after his appointment, or otherwise, the board shall fill without delay until the next annual election, occurring not less than fifteen days after such vacancy, when a successor shall be elected to fill the unexpired term; provided that any vacancy which may occur in township board of education from any of the causes aforesaid shall be filled by the election of a clerk by the local directors of the proper sub-district; and that in case of gross neglect of duty a member guilty of such neglect shall cease to be clerk of said sub-district, and a new election shall be held by the local directors thereof to fill such office.

SEC. 44. Each board of education shall organize on the third Monday of April in each year, by choosing a member of the board as a president, and a clerk, who may or may not be a member of the board; provided that in each township district the clerk of the township shall be ex-officio clerk of the board. In each city district the treasurer of the city

funds shall be ex-officio treasurer of the school funds of the school district, and in a township district the treasurer of the township funds shall be ex-officio treasurer of the school funds of such district, and in each village and special district the board of education shall choose its own treasurer; provided, that in city districts of the first class having no city treasurer the board of education may choose their treasurer from their own number, who shall receive no compensation for his services.

SEC. 45. The clerk of each board of education shall execute a bond in an amount and with surety to be approved by the board, payable to the state of Ohio, conditioned that he shall faithfully perform all the official duties required of him. Said bond shall be deposited with the president of the board, and a copy thereof certified by said president shall be filed with the county auditor.

Clerk to execute bond.

SEC. 46. Each school district treasurer or county treasurer, who is ex officio treasurer of any school district, shall, before entering upon the duties of his office, execute a bond with sufficient security, in double the probable amount of money that shall come into his hands, payable to the state of Ohio, to be approved by the board of education, conditioned for the faithful disbursement, according to law, of all such funds as shall from time to time come into his hands. Said bond when so executed and approved shall be filed with the clerk of the board of education of said district, who shall immediately cause a certified copy thereof to be filed with the county auditor. Said treasurer shall report to the board of education within ten days after his settlement with the county auditor, the amount of funds in his hands for school purposes.

Treasurers' bond.

Treasurer to report to auditor.

SEC. 47. The said treasurer shall annually, between the first and tenth day of September, settle with the county auditor for the preceding year, and account to him for all moneys received, from whom and on what account, and the amount paid out for school purposes in his district; the auditor shall examine the vouchers for such payments, and if satisfied with the correctness thereof, shall certify the same, which certificate shall be prima facie a discharge of such treasurer; and at the expiration of his term of service, said treasurer shall deliver over to his successor in office all books and papers, with all moneys or other property in his hands belonging to said district, and also all orders he may have redeemed since his last settlement with the county auditor, and take duplicate receipts of his successors thereof, one of which he shall deposit with the clerk within ten days thereafter. In case the treasurer of any school district shall willfully or negligently fail to make such annual settlements within the time as prescribed in this section, he shall be liable to pay a fine of fifty dollars, to be recovered in a civil action in the name of the state of Ohio, which amount when collected shall be paid into the county treasury, and shall be applied to the use of common schools in the proper school district, and it is hereby made the duty of the county auditor to pro

Treasurer's settlement with auditor.

Deliver books and papers to his successor.

Failure to make settlement, fine for.

ceed forthwith in case of such failure by suit against such treasurer before any justice of the peace of his county to recover the penalty aforesaid.

Surety, how released.

SEC. 48. It shall be lawful for any surety or sureties of any treasurer of school funds in any school district organized under the provisions of this act, at any time to notify the board of education of the proper district by giving at least five days' notice in writing that he or they are unwilling to continue as security for such treasurer, and will at a time therein named make application to said board of education to be released from further liability upon the bond of such treasurer; and shall also give at least three days' notice in writing to such treasurer of the time and place at which such application shall be made. It shall be the duty of the board of education upon such notice being given, to hear such application, and if in their opinion there is good reason therefor, they shall require such treasurer to give a new bond, conditioned according to law, and the sureties on said first bond shall be released and exonerated from further liability thereon; and thereupon said board of education shall require such treasurer to give a new bond conditioned according to law and to the satisfaction of said board of education, within such time as they may direct; and if such treasurer shall fail to execute such bond as aforesaid, the office shall be deemed vacant and shall be immediately filled as other vacancies in said office; but such original surety or sureties shall not be released or discharged until the filing of the new bond, or the expiration of the time allowed therefor; provided, that the cost of such application shall be paid by the person or persons making such application.

New bond.

Compensation of clerk and treasurer.

SEC. 49. The board of education may fix the compensation of the clerk and treasurer, but the allowance made to the treasurer shall not exceed one per centum of the money disbursed by him on orders from the board; provided, that the treasurer of a township district shall be allowed as his compensation one per centum on all school funds disbursed by him, to be paid on the order of the trustees of the township out of the township treasury; and that the treasurer of city funds shall be allowed no compensation unless otherwise provided for by law, for disbursing the school funds of the city districts.

Duty to provide for free education.

May establish schools of a higher grade.

Schools to be continued in session twenty-four weeks.

SEC. 50. Each board of education shall establish a sufficient number of schools to provide for the free education of the youth of school age within the district, at such places as will be most convenient for the attendance of the largest number of such youth, and also may establish one or more schools of higher grade than the primary schools whenever they deem the establishment of such school or schools proper or necessary for the convenience or progress in studies of the pupils attending the same, or for the conduct and welfare of the educational interests of such district; and the board shall continue each and every day school established by them for not less than twenty-four nor more than forty-four weeks in each school year; provided, that each township



board of education shall establish at least one primary school in each sub-district of their township; and the boards of education of the districts in which a "Children's Home" is or may be established under an act entitled "an act for the establishment, support and regulation of Children's Homes in the several counties of the state," etc., passed April 7, 1867, and in districts in which a County Infirmary is or may be located, when requested by the board of trustees of such "Children's Home," or the directors of such County Infirmary, are hereby authorized and required to establish in such Home or Infirmary a separate school so as to afford to the children therein so far as practicable the advantages and privileges of a common school education; and such school shall be continued in operation each year until the full share of all the school funds of the township or district belonging to said children on the basis of the enumeration shall have been expended; and all schools so established shall be under the control and management of the board of education or other school officers who have charge of the common schools of such district: Provided, that in the establishment of said schools the county commissioners of the county in which such "Children's Home" or County Infirmary may be established, shall provide the necessary school room or rooms, furniture, apparatus and books, which they are hereby empowered to do; and provided further, that such boards of education shall incur no expense in supporting said schools, except in the payment of the teachers.

SEC. 51. In any district composed, in whole or in part, of any city or incorporated village, the board of education may at their discretion provide a suitable number of evening schools for the instruction of such youth as are prevented by their daily vocation from attending day schools, subject to such regulations as said board from time to time may adopt for the government thereof.

SEC. 52. Each board of education shall determine the studies to be pursued and the text books to be used in the schools under their control, and no text book shall be changed within three years after its adoption without the consent of three-fourths of the members of the board of education given at a regular meeting; and it shall be the duty of the boards of education to cause the German language to be taught in any of the public schools of this state when demanded by seventy-five freeholders residents of said school district, representing not less than forty pupils, who shall in good faith desire and intend to study the German and English languages together: Provided, that nothing herein contained shall be construed as preventing said boards of education from causing the German or other languages to be taught in said schools; and provided further, that all branches taught in the common schools of this state shall be in the English language.

SEC. 53. The board of education of each school district shall have the management and control of the public schools of the district which are or may be established under the

School in each sub-district.

Schools in children's homes and county infirmaries.

Length of session.

Under the management of the board of education.

County commissioners shall provide school room, &c.

Liability of board.

Evening schools.

Board to determine studies, text books, &c.

Change of text books.

When German must be taught.

All branches must be taught in the English language.

Boards' powers to appoint superintendents, teachers, &c.

authority of this act, with full power in respect to such schools, to appoint a superintendent and assistant superintendents of the schools, a superintendent of buildings, teachers, janitors and other employees, and fix their salaries or pay, which salary or pay shall not be increased or diminished during the term for which the appointment is made; provided, that no person shall be appointed for a longer time than that for which a member of the board of education is elected; and such board shall have power to dismiss any appointee for inefficiency, neglect of duty, immorality or improper conduct; provided further, that in each township district the local directors shall employ or dismiss for sufficient cause the teacher or teachers of the school or schools in the sub-district in which they reside, and shall also have power to fix the salaries or pay of said teachers, which salaries or pay may be increased but not diminished in amount by the township board, and shall not in any year exceed in aggregate amount the school moneys distributed pro rata by enumeration, and the amount which shall be apportioned to such sub-district of the fund raised by local levy to continue the schools in session twenty-four weeks each year as required by law; and in case the local directors of any sub-district shall fail to employ a teacher or teachers as aforesaid, the township board of education shall employ a teacher or teachers for such sub district school or schools, and fix the salaries or pay of the same. The local directors shall certify the amount due any teacher for services, to the township clerk, who shall draw an order on the township treasury for the amount, when said teacher shall file with him this certificate, the term report prescribed by the state commissioner of common schools, together with such other reports as may be required by the rules of the board, and a copy of his or her certificate of qualifications from the county examiners, as required by section ninety-four of this act.

**SEC. 54.** The board of education of any district are hereby authorized and required to make such rules and regulations as they may deem expedient and necessary for the government of the board, their appointees and the pupils; and no meeting of a board of education not provided for by the rules of the board or by law, shall be legal unless all the members thereof shall have been notified, as provided in section thirty-one.

**SEC. 55.** The board of education of any district are hereby empowered to build, enlarge, repair and furnish the necessary school houses, purchase or lease sites therefor, or rent suitable school rooms, and make all other necessary provisions for the schools under their control; and it shall be the duty of the local directors, under such rules and regulations as the township board of education may prescribe, to provide fuel for schools, build, enlarge, repair and furnish school houses, purchase or lease sites therefor, rent school houses, and make all other provisions necessary for the convenience and prosperity of the schools within their sub-districts; and the township board, in its corporate capacity, shall be held responsible

Power to  
dismiss.

Power of local  
directors to em-  
ploy teachers.

How limited.

When board  
may act as local  
directors.

Payment of  
teachers.

Board to make  
rules and regu-  
lations.

Further powers  
and duties of  
boards of edu-  
cation.

Local directors  
to act under  
rules of the  
board.

for all contracts made by such local directors, when such contracts are made in accordance with the rules and regulations of said township board, or in accordance with any resolution thereof; provided, that whenever any board of education shall build, enlarge, repair or furnish a school house or houses, or make any improvement or repair provided for in this act, the cost of which will exceed five hundred dollars, except in city districts of the first and second class, in which the cost shall not exceed fifteen hundred dollars, except in cases of urgent necessity, or for the security and protection of school property, said board shall proceed as follows:

1. Said board shall advertise for bids for the period of four weeks in some newspaper in general circulation in said district, and two if there are so many; and if no newspaper is published therein, then by posting up such advertisements in three public places therein, which advertisement shall be entered in full by the clerk on the record of the proceedings of said board.

2. The bids, duly sealed up, shall be filed with the clerk by twelve o'clock at noon of the last day, as stated in the advertisement.

3. The bids shall be opened at the next meeting of the board, and publicly read by the clerk and entered in full on the records of the board.

4. Each bid shall contain the name of every person interested in the same, and shall be accompanied by a sufficient guarantee of some disinterested person, that if the bid is accepted a contract will be entered into and the performance of it properly secured.

5. If the work bid for embraces both labor and materials, each must be separately stated with the price thereof.

6. None but the lowest responsible bid shall be accepted, but the board may in their discretion, reject all the bids, or they may in their discretion, accept any bid for both labor and material, which shall be the lowest aggregate cost of such improvement or repairs.

7. Any part of a bid which is lower than the same part of any other, shall be accepted, whether the residue of the bid is higher or not, and if it is higher such residue shall be rejected.

8. The contract shall be between the board of education and the bidders; and said board shall pay the contract price for the work, when it is completed, in cash, and may pay monthly estimates as the work progresses if they deem best.

9. If two or more bids are equal in the whole or any part thereof, and are lower than any others, either may be accepted, but in no case shall the work be divided between them.

10. When there is reason to believe that there is any collusion, or combination among the bidders, or any number of them, the bids of those concerned therein shall be rejected.

SEC. 56. Each board of education, at a regular or special meeting held between the third Monday in April and the first Monday in June of each year, shall determine by estimate as nearly as practicable, the entire amount of money

Proceedings to build or repair school-house when exceeding certain limits.

To advertise for bids.

Bids, how made.

When read.

Notice of bid.

Labor and materials separately stated.

What bids accepted.

May accept part of a bid and reject the residue.

Contract between board of education and bidders.

Either of two equal bids may be accepted.

Bids rejected.

Estimates for school purposes by board of education.

Bonds may be issued by boards of city districts of the first class.

Order to issue bonds, made only at a regular meeting.

Proceedings thereon, and levy and collection.

Allowance to county examiners.

County commissioners may direct a levy in certain cases.

Liability of board on failure to levy.

necessary as a contingent fund to be expended for prolonging the several schools of the district for the purchase of suitable sites for school houses; for leasing, purchasing, erecting and furnishing school houses; and for all other school expenses, not exceeding seven mills on the dollar of the taxable property of the district, as valued for taxation. And any board of education of any city district of the first class are hereby authorized to issue bonds to obtain or improve public school property, and in anticipation of income from taxes for such purposes levied or to be levied, may, from time to time, as occasion shall require, issue and sell bonds, under the restrictions and bearing the rate of interest specified in section sixty-three, and shall pay such bonds and the interest thereon when due, but shall so provide that no greater amount of such bonds shall be issued in any one year than would equal the aggregate of a tax at the rate of two mills, under this section for the year next preceding such issue; provided, that the order of such board to issue such bonds, be made only at a regular meeting thereof, and by a vote of a majority of all the members of such board, taken by yeas and nays and entered on the journal of the board.

SEC. 57. The amount so estimated the board shall certify, in writing, on or before the first Monday in June in each year, to the auditor of the county to which such district belongs, who shall thereupon assess the entire amount of such estimate upon all the taxable property of the district, and enter it upon the tax duplicate of the county, and the county treasurer shall collect the same at the same time and in the same manner as state and county taxes are collected; and when collected, he shall pay the same over to the proper school treasurer, upon a warrant from the county auditor.

SEC. 58. Said county treasurer, unless he receives a fixed salary, shall be entitled to receive one per centum on all moneys so collected by him for school purposes, and no more.

SEC. 59. If any board of education shall in any one year fail to estimate and certify the levy as required in this act, or to provide sufficient school privileges for all the youth of school age in the district, or to provide for the continuance of any school in the district for at least six months in the year, or to provide for such school an equitable share of school advantages as required by this act, it shall be the duty of the county commissioners of the county to which such district belongs, upon being advised and satisfied thereof, to do and perform any or all of said duties and acts, in as full a manner as said board of education are by this act authorized to do and perform the same; and the members of said board causing said failure, shall be each severally liable in a penalty not exceeding fifty dollars nor less than twenty-five dollars, to be recovered in a civil action in the name of the state of Ohio, upon complaint of any elector in said district, which sum shall be collected by the prosecuting attorney of said county, and when so collected shall be paid into the treasury of said county for the benefit of the school or schools of said district.

SEC. 60. So much of the fund raised by local levy as may be set apart for the continuation of the schools after the state funds have been exhausted, shall be so apportioned that the schools in all the sub-districts of the township shall be continued the same length of time each year. In case this fund be apportioned by any township board in a manner not satisfactory to the local directors of any sub-district, or a majority of them, said local directors may give notice thereof to the county commissioners of the proper county, who, at their first regular meeting for the transaction of business after such notice shall have been given, shall revise said apportionment, and the funds aforesaid shall be apportioned in the manner determined by said county commissioners.

Township levy,  
how apportioned.

May appeal to  
commissioners.

SEC. 61. Whenever the board of education of any school district, except a city district of the first class, shall determine that it is necessary for the proper accommodation of the schools of such school district, to purchase a site and erect a school house thereon, or to do either, and such board shall be of opinion that the purchase of such site and the erection and furnishing of such house, or either of said purposes, will require a greater tax upon the property of such school district, than such board is authorized by this act to levy, and that to provide the means therefor it will be necessary to issue bonds, such board shall make an estimate of the probable cost of such site and house, or of either, and at a general election or special election called for that purpose, of the qualified electors of the district over which such board has jurisdiction, giving ten days' notice by posting in five of the most public places in said district, notices stating the time, place and object of said election, and submit to said voters at such election the question of levying taxes for said purposes, or either of them, and the further questions whether the levy for such purpose shall be made from year to year thereafter, and what amount shall be levied in each year until the actual cost of such site and the erection of said house, or of either, shall be raised.

Voters may  
direct a levy in  
certain cases.

SEC. 62. And if a majority of the qualified voters at such election shall vote in favor of levying taxes for said purposes, or either of them, of continuing the levy from year to year thereafter, and for the amount to be levied each year for the purpose or purposes aforesaid, said board of education shall certify the same, annually, to the county auditor of the proper county, who shall place the same upon the tax duplicate in the same manner that other taxes certified by such board of education are required to be placed on such tax duplicate. In case any part of the district is situated in an adjoining county, the levy in such part shall be certified, collected, and paid over as provided for in section thirty-five for levies made by the board of education.

Levy and collection.

SEC. 63. To enable such boards of education to anticipate the moneys to be raised by taxation, as provided for in the preceding section, and to purchase such site and erect such school-house, or to do either, they are hereby authorized to borrow the sum of money necessary for such purposes, or of

Issue of bonds  
to anticipate  
moneys.

either, not exceeding the amount so authorized to be levied, and to issue bonds therefor, payable as indicated by the vote provided for in section sixty-one of this act, after a certain day to be named therein, bearing interest payable semi-annually, at a rate specified therein, not exceeding eight per centum per annum; the bonds to be issued by such board under this act, shall be in such sums as the board may determine, be numbered consecutively, made payable to the bearer, bear date the day of sale thereof, and be signed by such board officially, and the clerk of the board shall keep a record of the number, date, amount, and rate of interest of each bond sold, and the sum for which each bond was sold, and the name of the person to whom sold, and the time when payable, which record shall at all reasonable times be open to the inspection of the public. The bonds so issued shall in no case be sold for a less sum than their par value, nor bear interest until the purchase money for the same shall have been paid by the purchaser thereof.

Nature of  
bonds.

Admission of  
pupils.

*Amended!*  
*Inf 73-243*

Proceedings to  
appropriate  
land for school-  
house sites.

SEC. 64. The board of education of any school district may contract with the board of any adjacent district for the admission of pupils into any school in such adjacent districts, and the expense so incurred shall be paid out of the school funds of the district sending such pupils.

SEC. 65. In every case where it may be necessary to procure or enlarge a school-house site, and the board of education of any school district and the owner of such proposed site or addition shall be unable from any cause to agree upon the sale and the purchase thereof, the board shall make out an accurate survey and description of the parcel of land which the said board of education may desire to appropriate for school-house purposes, and file the same with the probate judge of the proper county, and thereupon the same proceedings of appropriation shall be had which are provided for by chapter forty-seven of an act entitled an act to provide for the organization and government of municipal corporations, passed May 6, 1869. (O. L., volume 66, page 231.)

Statement  
made by clerk.

SEC. 66. The board of education of each district, except in city districts of the first class, are hereby authorized to require the clerk of said board annually, ten days prior to the election for members of said board, to make out and post up at the place or places of holding such election, or publish in some newspaper of general circulation in their district, an itemized statement of all moneys received and disbursed by said board within the school year last preceding.

Members of  
board not entit-  
led to compen-  
sation.

SEC. 67. It shall be unlawful for any member of any board of education organized under any law of this state, to receive any compensation for his services as a member of said board, except as clerk of the board, or to apply any money coming into his hands for the benefit of schools to his own use; and any person violating either of the provisions of this section shall be prosecuted therefor, and punished as for obtaining money under false pretenses; and all moneys collected under the provisions of this section, shall be paid into the treasury of the county in which the action shall have originated, for the use of common schools in said district.

SEC. 68. The process in all suits against any board of education, shall be by summons, and shall be served by leaving a copy thereof with the clerk or president of such board; and such board shall be required to appear and answer, as in other civil actions.

Process against school officers.

SEC. 69. It is hereby made the duty of the prosecuting attorney of the proper county, or in case of a city district, the city solicitor, to prosecute all actions which by this act may be brought against any member or officer of any school board, in his individual capacity; and to act in his official capacity as such prosecutor, as the legal counsel of such boards or officers in all civil actions brought by them or against them in their corporate or official capacity; provided, no prosecuting attorney or city solicitor shall be a member of the board of education.

Duty of prosecuting attorney.

SEC. 70. The school year shall begin on the first day of September of each year, and close on the thirty-first day of August of the succeeding year. A school week shall consist of five days, a school month of four school weeks.

School year, week, and month.

SEC. 71. The schools established by this act, shall be free to all youth between six and twenty-one years of age who are children, wards or apprentices of actual residents of the school district, and no pupil shall be suspended therefrom except for such time as may be necessary to convene the board of education of the district or local directors of the sub-district, nor be expelled unless by a vote of two-thirds of said board or local directors, after the parent or guardian of the offending pupil shall have been notified of the proposed expulsion, and permitted to be heard against the same; and no scholar shall be suspended or expelled from the privilege of schools beyond the current term: Provided, that each board of education shall have power to admit other persons, not under six years of age, upon such terms or upon the payment of such tuition as they may prescribe; and boards of education of city, village or special districts shall also have power to admit, without charge for tuition, persons within the school age who are members of the family of any freeholder whose residence is not within such district, if any part of such freeholder's homestead is within such district; and, provided further, that the several boards of education shall make such assignment of the youth of their respective districts, to the schools established by them as will, in their opinion, best promote the interests of education in their districts; and provided further that nothing contained in this section shall supersede or modify the provisions of section thirty-one of an act entitled an act for the reorganization, supervision and maintenance of common schools, passed March 14, 1853, as amended March 18, 1864.

What pupils admitted.

Suspension and expulsion.

Assignment of scholars.

Sec. 31 of act of March 14, 1853, retained.

SEC. 72. All property, real or personal, vested in any board of education, shall be exempted from tax and from sale on any execution or other writ or order in the nature of an execution.

School property exempt from taxation or execution.

SEC. 73. That if any person shall willfully and maliciously injure or deface any school house, its fixtures, books or appurtenances, or shall commit any nuisance therein, or

Penalty for injuring school property.

shall purposely and maliciously commit any trespass upon the enclosed grounds attached thereto, or any fixtures placed thereon, or any enclosure or sidewalk about the same, such person shall, upon conviction thereof, be fined in any sum not exceeding one hundred dollars, or be imprisoned in the county jail not exceeding ninety days, or both, in the discretion of the court. Such fine, when collected, shall be paid to the treasurer of the proper county for the use of the school district in which the offense was committed.

Willful disturbance, how punished.

SEC. 74. If any person or persons shall hereafter willfully disturb, molest or interrupt any school or society formed in such school for the intellectual improvement of its members, such person or persons so offending shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in any sum not less than five nor more than twenty dollars, with cost of prosecution, and shall stand committed until such fine shall have been paid, or he shall have been discharged by due course of law; and, provided further, that the judgment for cost shall not be abated until such costs shall have been fully paid. Such fine when collected, shall be paid into the county treasury, for the use of common schools in the proper county.

Statement made to auditor by board of education.

SEC. 75. The board of education of each district shall make a report to the county auditor on or before the first day of October in each year, containing a statement of the receipts and expenditures of said board, the number of schools sustained by them, the length of time such schools were sustained, the enrollment of pupils, the average monthly enrollment and average daily attendance, number of teachers employed, their salaries, the number of school houses and school rooms, and such other items as the state commissioner of common schools may require. These reports shall be made on blanks which shall be furnished by the said commissioner of common schools to the auditor of each county, and by such auditor to each school clerk in his county; and it shall be the duty of each board of education, or officer or employee thereof, or other school officer in any district or county of the state, whenever the state commissioner of common schools shall so require, to report to him direct upon such blanks as the said commissioner shall furnish, any statements or items of information that the said commissioner may deem important or necessary; and whenever the school commissioner, on examination of the enumeration of youth made and returned by any district under this act, shall be of opinion that the same is excessive in number or in any other way incorrect, he may require the enumeration for such district to be retaken and returned, and if he think it necessary he may for this purpose appoint one or more persons to perform this duty, who shall take the same oath and perform the same duties and receive the same compensation, and out of the same funds, as the person or persons who took the enumeration in the first instance, and the school fund shall be distributed on the corrected enumeration; and any officer through whose hands the enumeration required by this act to be returned, shall pass, who shall, by percentage or otherwise, add to or

When to report to school commissioner.

When enumeration may be re-taken by state commissioner.

Penalty for fraudulently altering enumeration.



take from the number actually enumerated, shall be deemed guilty of a misdemeanor, and upon conviction of such offense, shall be fined in any sum not less than five dollars and not exceeding one thousand dollars, or imprisoned in the county jail not less than ten days nor more than thirty days, at the discretion of the court.

SEC. 76. Each board of education shall require the teachers and superintendents appointed by them, to keep the school records in such a manner that the board may be enabled to report annually to the county auditor as required by the provisions of this act. Said board of education is hereby authorized to withhold the pay of such teachers as shall fail to file with the clerk the reports required of them by the board, and to require the superintendent to report each year such matters as said board may determine to be important or necessary for information in regard to the management and conduct of the schools, and to make such suggestions and recommendations as he may deem advisable relative to methods of instruction, school management or other matters of educational interest. And the board of education of each city district of the first class shall make and publish annually a report on the condition of the schools under their charge, as well as the fiscal and other concerns in relation thereto, and a particular account of the administration thereof.

Teachers and superintendents to keep school records.

What boards to publish report of condition of schools.

SEC. 77. In every district in the state there shall be taken between the first Monday in September and first Monday in October in each year an enumeration of all unmarried youth, noting race and sex, between six and twenty-one years of age, resident within the district, and not temporarily there, designating also the number between sixteen and twenty-one years of age, the number residing in the Western Reserve, the Virginia Military District, the United States Military District, and in any original surveyed township or fractional township to which belongs section sixteen, or other land in lieu thereof, or any other lands for the use of schools or any interest in the proceeds of such land: Provided, that in addition to the classified return of all the youth residing in the district that the aggregate number of youth in the district resident of any adjoining county shall be separately given, if any such there be, and the name of the county in which they reside; and each person required or employed under this act to take said enumeration, shall be first sworn or affirmed to take said enumeration accurately and truly to the best of his skill and ability; and when making return of the same to the proper officer he shall accompany said return by his affidavit duly certified that he has taken and returned said enumeration accurately and truly to the best of his knowledge and belief; and the officer to whom such return of enumeration is required to be made, is hereby authorized to administer such oath or affirmation, and to take and certify such affidavit. Each person so taking and returning said enumeration shall be allowed by the proper board of education reasonable compensation for his services.

Enumeration of youth of school age.

Person taking enumeration to be sworn.

Clerk to employ person to take enumeration.

SEC. 78. It shall be the duty of the clerk of the board of education of each district in the state, other than township districts, to employ one or more competent persons to take and return to him the enumeration of said district in the manner prescribed in section seventy-seven of this act.

Abstract to be transmitted to auditor.

SEC. 79. The clerk of each board of education shall, on or before the second Monday of October in each year, make and transmit to the county auditor an abstract of the enumeration by this act required to be returned to him, according to the form prescribed by the state commissioner of common schools, with an oath or affirmation endorsed thereon, that it is a correct abstract of the returns made under oath or affirmation to him. The oath or affirmation of the clerk may be administered and certified to by any member of the board of education, or by the county auditor.

When auditor shall take enumeration.

SEC. 80. If the clerk of any school district shall fail to return the annual enumeration herein required, to the county auditor of the proper county on or before the second Monday of October, the said auditor shall at once demand a duly certified abstract of such enumeration from said clerk, and in case such enumeration has not been taken as required in this act, or an abstract furnished at once as required in this section, the said auditor shall employ one or more competent persons to take such enumeration, which persons shall be subject to the legal requirements already specified, except that the returns shall be made directly to the auditor, who is hereby authorized to administer to each person employed the oath or affirmation required. The auditor shall allow the person or persons employed by him a reasonable compensation out of the general county fund, and shall proceed to recover the amount or amounts so paid for such services in a civil action before any court having competent jurisdiction, in the name of the State of Ohio against said clerk on his bond, and the amount so collected shall be paid into the general county fund.

Compensation therefor.

Abstract to be transmitted to school commissioner.

SEC. 81. The county auditor of each county shall transmit to the state commissioner of common schools, on or before the fifth day of November in each year, an abstract of the enumeration returns made to him, duly certified. If the auditor shall willfully or negligently fail to perform any duty herein required, he shall be liable on his bond to twice the sum lost to the school districts of his county in consequence of any such neglect, which sum shall be recovered in a civil action before any court of competent jurisdiction, in the name of the state of Ohio against the said auditor on his bond, and the amount so collected shall be paid into the county treasury for the benefit of such districts.

Penalty for failure to certify abstract.

Report of receipts and expenditures of school moneys to auditor.

SEC. 82. The clerk of each board of education shall prepare the annual report of the receipts and expenditures of school moneys, and the statistical statement in reference to the schools required of the board of education, and transmit the same to the county auditor on or before the first day of October in each year; and immediately after the filing of a bond by the school treasurer of such board, transmit to the county auditor a certified statement that said treasurer has

executed and deposited the requisite bond according to the provisions of this act, and also state the amount of such bond.

SEC. 83. No treasurer of a board of education, except in cases otherwise provided for in this act, shall pay out any school money, except on an order signed by the president and countersigned by the clerk of said board. No money shall be paid to the treasurer of a board of education other than that received from the county treasurer, except upon the order of the clerk of said board, whose duty it shall be to report the amount of such miscellaneous receipts to the auditor of the proper county.

How certain school funds are received and disbursed.

SEC. 84. It shall be the duty of the auditor of each county in the state to furnish the clerk and treasurer of the several school districts in his county with a suitable blank book each, made according to the form prescribed by the state commissioner of common schools, in which it shall be the duty of said clerk and treasurer respectively to make a record of all school moneys received and disbursed within each school year, showing the amount of school moneys in the hands of the said treasurer on the first day of September of each year, and also at the time of the annual settlement of said treasurer with the board of education, and from what sources received; the amount received within the school year, and from what sources; the orders drawn or paid, as the case may be, from what funds and for what purpose, and the amount of school funds in the hands of said treasurer at the close of the school year; and at the expiration of his official service, said clerk shall deliver to his successor in office the aforesaid book, also the book in which is recorded the official proceedings of the board of education, all certificates and reports of teachers required by law to be filed in his office, and all other official books and papers in his hands relating to schools. The auditor shall in no case permit said treasurer to have in his hands at any one time, an amount of school funds over one-half the amount of the penalty in the bond of said treasurer. And to enable said auditor to ascertain the amount of such funds in the hands of said treasurer, the said treasurer shall be required to furnish a written statement from the clerk of his school district, exhibiting the amount of school funds in said treasurer's hands, as shown by said clerk's books, which statement the said treasurer shall present to the county auditor before an order is drawn on the county treasurer for any of said school funds, and it is hereby made the duty of such clerk to furnish such statement whenever it may be necessary for the purposes aforesaid.

Auditor to furnish blank book for treasurers and clerks.

Books, how kept.

Books to be delivered to successors.

School funds in hands of treasurers not to exceed one-half the penalty of their bond.

## CHAPTER VII

### EXAMINERS AND THEIR DUTIES—STATE BOARD OF EXAMINERS.

SEC. 85. It shall be the duty of the state commissioner of common schools to appoint a state board of examiners, to consist of three competent persons, resident in the state, who shall hold their office for two years, and until their suc-

State school commissioner to appoint board of examiners.

cessors are appointed; and all vacancies in said board which may thereafter occur by death, resignation or otherwise, shall be filled by appointment by said commissioner for the unexpired term.

Powers of state board of examiners.

SEC. 86. The state board of examiners thus constituted, are hereby authorized to issue life certificates of high qualifications to such teachers as may be found upon examination to possess the requisite scholarship, and who may also exhibit satisfactory evidence of good moral character, and of eminent professional experience and ability.

Validity of state certificates.

SEC. 87. All certificates issued by said state board of examiners, shall be countersigned by the commissioner of common schools; and such certificates shall supersede the necessity of any and all other examinations of the persons holding them by county or local boards of examiners, and such certificates shall be valid in any school district in the state, unless revoked by said board of examiners for good cause.

May be revoked for cause.

Examination fee.

SEC. 88. Each applicant for a state certificate shall pay to the board of examiners a fee of three dollars.

#### COUNTY EXAMINERS.

Probate judge to appoint examiners.

SEC. 89. It shall be the duty of the probate judge of each county of this state, as soon after the election of school officers under the provisions of this act as practicable, to appoint a county board of school examiners, to consist of three competent persons, resident in the county, one for the term of one year, one for two years and one for three years, and annually thereafter one for three years, who shall hold their office for the term of three years, and until their successors are appointed; provided, that no person shall be appointed school examiner who, as principal or teacher is connected with or interested in any Normal School, or school for the special education or training of persons for teachers; and if any school examiner shall after his appointment as such examiner, become so connected with any such normal school or school for the education or training of persons for teachers, his place shall thereby be held and become vacant, and the probate judge shall immediately fill such vacancy by appointing some suitable person not so connected with any such school; provided the said probate judge may at any time revoke the appointment of any school examiner upon satisfactory proof that said examiner is inefficient, negligent or guilty of immoral conduct; and all vacancies in said board which may thereafter occur, whether from expiration of the term of office, refusal to serve, or otherwise, shall be filled by like appointment by said judge; and it shall be the duty of the probate judge, within ten days after the appointment of school examiners, to report the names and residence of the appointees to the state commissioner of common schools; provided, that in case there be no probate judge in said county, the judge or judges of the court of common pleas shall perform the duties by this section required of the probate judges.

No person connected with a normal school shall be an examiner.

Probate judge shall appoint a substitute.

When judges of common pleas may appoint examiners.

SEC. 90. It shall be the duty of the examiners to fix upon the time of holding the meetings for the examinations of teachers, in such places in their respective counties as will, in their opinion, best accommodate the greatest number of candidates for examination, notice of all such meetings being published in some newspaper of general circulation in their respective counties; and at such meetings any two of said board shall be competent to examine applicants and grant certificates; and as a condition of examination, each applicant for a certificate shall pay the board of examiners a fee of fifty cents.

Powers and  
duties of board.

SEC. 91. All such fees received by the examiners shall be paid over quarterly to the county treasurer, with a statement made to the auditor of the number of applicants, male and female, examined; and all moneys so paid over to the county treasurer by the board of examiners, shall, after paying on the order of the county auditor, the necessary traveling expenses of said examiners, which in no quarter shall exceed one-third the amount so paid to the county treasurer as examination fees, be set apart as a fund for the support of teachers' institutes, as hereafter provided in this act, and shall be used for no other purpose; provided, that the number of meetings held by said board of examiners for the examination of teachers, shall not, in any one year, exceed eighteen.

Quarterly re-  
port of exam-  
iners.

Examination  
fees to be set  
apart to sup-  
port teachers'  
institutes.

SEC. 92. A certificate granted by county examiners shall be valid only for six, twelve, eighteen, or twenty-four months from the day of examination, and in all the school districts of the county in which it shall be granted; provided, no such certificate shall be valid in a city district of the first class, in a city district of the second class, or in a village district, unless the same shall be endorsed by the president and secretary of the boards of examiners of such districts. If at any time the recipient of the certificate shall be found immoral, incompetent or negligent, the examiners, or any two of them, may revoke the same.

Validity of  
county certifi-  
cate.

Certificates  
may be revoked.

SEC. 93. No person shall be employed as a teacher in any common school, unless such person shall have first obtained from a board of examiners having competent jurisdiction, or a majority of them, a certificate of good moral character, and that he or she is qualified to teach orthography, reading, writing, arithmetic, geography, English grammar, and possesses an adequate knowledge of the theory and practice of teaching; and in case such person be required to teach other branches than those herein specified, he or she shall first obtain a certificate of the requisite qualifications, in addition to the branches aforesaid.

Certificates to  
teachers.

SEC. 94. And it shall be unlawful for any clerk to draw an order on the treasurer for the payment of a teacher for services, unless said teacher shall have first filed with said clerk a legal certificate of qualification, or a true copy thereof, covering the entire time of the services for the payment of which such order is drawn, and the branches which such teacher has taught; provided, that orders may be drawn for special teachers of drawing, painting, penmanship, music, gymnastics, or any foreign language, on presentation of a

When orders  
for teachers'  
pay illegal.

Payment of  
teachers for  
special  
branches.

certificate, signed by a majority of the examiners, covering the time for which said special teacher has been employed.

Board of examiners to appoint clerk; his duties.

Compensation of examiners.

Report to state commissioner.

Clerk's bond.

SEC. 95. The said board of examiners shall appoint one of their number to serve as clerk, who shall keep a record of their proceedings, noting the number and date of each certificate given, to whom, for what term of time, for what branches of study, and such other statistics relating to their examinations and proceedings as the state commissioner of common schools may require; and said board may make all needful rules and regulations for the proper discharge of their duties. The members of the board shall be entitled to receive each two dollars for every day necessarily engaged in official service, to be paid out of the county treasury, on the order of the county auditor, exclusive of blanks and stationery, which the county auditor shall furnish; and the county auditor may require the accounts when presented, to be substantiated on oath, which said officer shall administer and file in his office. It shall be the duty of the clerk of said board of examiners to prepare and forward to the state commissioner of common schools, on or before the first day of October, a statement of the number of examinations held by the board, the number of applicants examined, the number of certificates granted and for what length of time, the amount of fees received and paid over to the county treasurer, the amount received of the county by the board for their services, and such other important statistics and information in relation to their duties as the state commissioner of common schools may require. The clerk of the board shall deposit with the county auditor a bond with surety to be approved by him, in the sum of three hundred dollars, that he will faithfully pay into the county treasury, quarterly, the examination fees required by this act to be so paid, and that he will faithfully make the statistical returns required and authorized by this act.

#### CITY EXAMINERS.

Board of education to appoint examiners:—duties of.

Compensation.

shall appoint annually.

SEC. 96. The board of education of each city district of the first class shall, as soon as practicable after the first organization under this act, appoint a board of examiners to consist of three, six or nine competent persons, as the board may determine, who shall have power to examine the schools established in such district, and shall examine all persons that desire to hold teachers' certificates valid in such district. One-third of said examiners shall be appointed for one, one-third for two, and one-third for three years, and shall serve until their successors are appointed and qualified. The standard of qualifications of teachers shall be determined by the board of examiners, and the board of education are hereby empowered to fix the salary or pay of said examiners, and to pay the same from the general fund raised for school purposes.

SEC. 97. The said board of education shall annually thereafter appoint one, two or three examiners, as the case may be, who shall serve for three years and until their suc-

cessors are appointed and qualified. And the board of education shall fill all vacancies in said board of examiners that may occur from refusal to serve, death, resignation or otherwise, for the unexpired term, and shall have power to revoke the appointment of any examiner upon satisfactory proof that said examiner is inefficient, negligent or guilty of immoral conduct. It shall be the duty of the clerk of each board of education to report to the state commissioner of common schools within ten days after the appointment, the names of the city school examiners appointed by such board, and also report in like manner the appointments made to fill vacancies.

Shall fill vacancies.

Names of examiners to be reported to state commissioner.

SEC. 98. The board of examiners in each city district of the first class shall organize by appointing one of their own number as clerk, who shall give bond, with surety to be approved by the board of education, in the sum of five hundred dollars, conditioned that he shall pay to the school treasurer of his district the examination fees collected in pursuance of this act, and that he shall make, on or before the first day of October in each year, such returns in reference to the examinations as may be required by the state commissioner of common schools of the clerk of the county board of examiners.

Organization of board.

SEC. 99. Said board, or a majority of them, may grant certificates, which shall be valid only in the city school district in which they are granted, for either one, two or three years.

*Amended*  
Certificates when valid. 1872:114

SEC. 100. Said board of examiners shall have power to revoke the certificate of any person who shall be guilty of immorality or improper conduct, or shall prove to be inefficient, and if such person shall be employed in any school in the district, they shall have power to discharge such teacher, who shall, however, be entitled to pay for services to the time of such discharge. Every person applying to a city board of examiners shall pay to the examiners fifty cents before entering upon the examination, which money shall be paid quarterly to the school treasurer of the city, and shall be set apart as a teachers' institute fund, to be appropriated as provided for in this act.

Further powers of examiners.

Examination fees.

SEC. 101. The powers and privileges herein granted to city districts of the first class, with reference to boards of examiners, are hereby extended to city districts of the second class and village districts having a population not less than twenty-five hundred; provided, that the board of examiners in such districts shall consist of three members; and provided further, that in any city districts of the second class, and in village districts, (except in those localities where associations have been or may hereafter be formed as provided for in section 119 of this act,) the fee of fifty cents which is required to be paid to the board of examiners by every person applying for a certificate to teach, shall be paid by said examiners to the county treasurer for the use of county institutes, and be paid out as other funds for the same purpose are ordered to be paid. The boards of educa-

Certain privileges extended.

tion of said city districts of the second class, in the matter of attaching the annexed territory for voting purposes, shall be governed by the provisions of this act conferring like powers upon city boards of education of the first class, as provided for in section ten.

## CHAPTER VIII.

### STATE COMMISSIONER.

When commissioner elected.

Term of office.

Vacancy, how filled.

His official bond.

—and oath.

Office, &c., at seat of government.

His duties in visiting the several judicial districts.

His supervision over school funds.

May require reports from certain officers.

SEC. 102. There shall be elected by the qualified electors of this state, at the annual election for state and county officers, in the year eighteen hundred and seventy-four, and every three years thereafter, a state commissioner of common schools, who shall hold his office for the term of three years from the second Monday in January succeeding his election, and until his successor is elected and qualified. The election of said commissioner, and the return thereof, shall be the same in all respects, as is provided for the election of judges of the supreme court; and in case a vacancy shall occur in said office by death, resignation, or otherwise, the governor shall fill the same by appointment until the next annual election of state officers, occurring not less than ninety days after such vacancy, and until a successor shall be elected and qualified.

SEC. 103. Before entering upon the discharge of his official duties, the said commissioner shall give bond, in the penal sum of five thousand dollars, to the state of Ohio, with two or more sureties, to the acceptance of the secretary of state, conditioned that he will truly account for and apply all moneys or other property which may come into his hands in his official capacity for the use and benefit of common schools, and that he will faithfully perform the duties enjoined upon him according to law; and he shall also take and subscribe an oath or affirmation to support the constitution of the United States and of the state of Ohio, and diligently and faithfully discharge the duties of his office as prescribed by law, which bond, with the certificate of his oath, endorsed thereon, shall be filed with the treasurer of state.

SEC. 104. The books and papers of his department shall be kept at the seat of government, where a suitable office shall be furnished by the state, at which he shall give attendance not less than ten months in each year, except when absent on public business.

SEC. 105. It shall be the duty of the commissioner to visit annually, each judicial district of the state, superintending and encouraging teachers' institutes, conferring with boards of education or other school officers, counselling teachers, visiting schools, and delivering lectures on topics calculated to subserve the interests of popular education.

SEC. 106. He shall also exercise such supervision over the educational funds of the state as may be necessary to secure their safety and right application and distribution according to law. He shall have power to require of county auditors, boards of education, clerks and treasurers of boards of edu-



cation or other local school officers, county treasurers and clerks of boards of education copies of all reports by them required to be made, and all such other information in relation to the funds and condition of schools, and the management thereof as he may deem important.

SEC. 107. He shall prescribe suitable forms and regulations for making all reports and conducting all necessary proceedings under this act, and shall cause the same, with such instructions as he shall deem necessary and proper for the organization and government of schools, to be transmitted to the local school officers, who shall be governed in accordance therewith.

To prepare forms, &c.

SEC. 108. He shall cause as many copies of the laws as may be necessary, relating to schools and teachers' institutes, with an appendix of appropriate forms and instructions for carrying into execution all such laws, to be printed in a separate volume, and distributed to each county with the laws, journals and other documents for the use of the school officers therein, as often after the first distribution as any change in said laws may be made of sufficient importance, in the opinion of the commissioner, to require a republication and distribution thereof.

Duties as to distribution of school laws, &c.

SEC. 109. It shall be the duty of said state commissioner of common schools to make an annual report, on or before the twentieth day of January in each and every year, to the general assembly, when that body shall be in session any such year; and when not in session in any one year, then the report shall be made to the governor, who shall cause the same to be published, and shall also communicate a copy thereof to the next general assembly.

His annual report.

SEC. 110. The state commissioner, in the annual report of his labors and observations, shall present a statement of the condition and amount of all funds and property appropriated to purposes of education; a statement of the number of common schools in the state, the number of scholars attending such schools, their sex, and the branches taught; a statement of the number of private or select schools in the state, so far as the same can be ascertained, and the number of scholars attending such schools, their sex, and the branches taught; a statement of the number of teachers' institutes, the number of teachers attending them, and the number of instructors and lecturers, and the amount paid to each; a statement of the estimates and accounts of the expenditures of the public school funds of every description; a statement of plans for the management and improvement of common schools, and such other information relative to the educational interests of the state as he may think of importance.

What it shall present.

SEC. 111. The said commissioner shall be entitled to receive for his services the sum of two thousand dollars annually, payable quarterly, out of the state treasury, on the warrant of the auditor of state: Provided, that the term of office of the state commissioner of common schools now in office shall continue until the second Monday in January, in the year eighteen hundred and seventy-five.

Salary of commissioner.

When his term of office shall commence.

## CHAPTER IX.

## TEACHERS' INSTITUTES—COUNTY INSTITUTES.

What funds to  
be paid by  
county treas-  
urer to commit-  
tee of institute.

When funds to  
be paid.

Bond of com-  
mittee.

Duty of prosec-  
uting attor-  
ney.

Length of  
session.

When state  
commissioner  
may hold insti-  
tute.

SEC. 112. In every county of this state, in which an association of teachers of common schools, called a teachers' institute, has been or may hereafter be formed, the treasurer of said county is hereby required to pay over to the committee of said institute, upon the order of the county auditor, such sum of money belonging to the fund arising from the means and sources as provided in the ninety-first, one hundred and first and one hundred and eighteenth sections of this act, as may not have been previously appropriated; and it shall be the duty of the said committee of every such teachers' institute to report, within thirty days after every meeting of the same, to the state commissioner of common schools, the number of teachers in attendance, the names of the instructors and lecturers, an account of the moneys received and expended by them, and such other information relating to the institute as the said commissioner may require: Provided, that no part of the said moneys shall be ordered by the county auditor to be paid over, except upon the petition of at least thirty practical teachers, residents of the county, who shall therein declare their intention to attend such institute, nor until the said committee shall file with the said auditor their bond, in double the amount of moneys to come into their hands, payable to the state of Ohio, for the use of the teachers' institute of said county, with sufficient sureties, to be approved by said auditor, conditioned for the faithful disbursement of said moneys, and that said committee shall make the report to the state school commissioner as hereinbefore provided; and in case the said committee shall fail to make said report as hereinbefore provided, they shall forfeit and pay to the state of Ohio the sum of fifty dollars for such failure, to be recovered in an action on said bond as hereinafter provided; and on forfeiture of such bond, it shall be the duty of the prosecuting attorney of the proper county, in the name of the state of Ohio, to prosecute an action upon such bond and collect any such moneys which said committee may have failed to disburse according to law, or any penalty to which they may be liable under this act, or both, and pay the same into the county treasury for the use of such institute.

SEC. 113. No institute held under the provisions of this act, shall continue for a period of time less than four days.

SEC. 114. Whenever there shall have been no teachers' institute held within two years in any county, the state commissioner of common schools may hold, or cause to be held in such county, a teachers' institute, and is authorized to defray the expenses of said institute out of the county institute fund, and the county auditor shall draw an order on the treasurer in favor of the committee chosen at such institute, said committee giving the same bond as required in this act.

SEC. 115. The clerk of the board of education of a city district of the first class shall make the same report of any teachers' institute provided for by the board of education as is required of county teachers' institutes.

Certain clerks of boards of education may hold institute.

SEC. 116. Each teacher employed in the common schools of this state, shall have a right to dismiss his or her school without forfeiture of pay on New Year's day, the Fourth of July, Christmas, and on any day set apart by proclamation of the president of the United States, or the governor of Ohio, as a thanksgiving or fast day.

Holidays.

SEC. 117. Any teacher in any public school is hereby authorized to dismiss the school under his or her charge for the week in which is held the county teachers' institute for the purpose of attending the same, and such teacher shall not forfeit his or her pay for such week; provided, such teacher shall deposit with the clerk of the board a certificate from the secretary of the institute that he or she has been present at such institute for not less than four days; provided, that this privilege is not extended to teachers in city districts of the first class without the consent of the board of education thereof, and that no union or graded school shall be dismissed except when a majority of the teachers in such school are in favor of such dismission.

Teacher may dismiss school to attend institute.

#### CITY INSTITUTES.

SEC. 118. The board of education of any city district of the first class are authorized to provide for holding yearly an institute for the improvement of the teachers of the schools under their control, which institute shall continue not less than four days, and the board are hereby authorized in defraying the expenses of such institute to use the city institute fund arising from the examination fees of teachers, or any other moneys under their control; provided, that if said board shall not hold one institute in any school year, that said board shall cause an order to be issued on the treasurer in favor of the county treasurer for such institute fund, which the county treasurer shall place to the credit of the county institute fund, in which case the teachers of such city district shall be entitled to the advantages of the county institute.

City institute.

Length of session.

May unite with county institutes.

SEC. 119. Whenever a teachers' association, formed for the professional improvement of the teachers of several adjacent counties, shall organize a teachers' institute for the specific purpose of providing for the professional instruction of the teachers of the graded schools in such adjacent counties, any and all boards of education of city districts of the first and second class, village districts and special districts within said counties shall have power to contribute to such institutes from the institute and other funds under their control, and to permit the teachers employed by them to attend the same for one week without forfeiture of wages.

Teachers' association for special instruction.

## CHAPTER X.

## APPORTIONMENT OF SCHOOL FUNDS.

State auditor  
to apportion  
school funds.

County audit-  
ors to apportion  
funds in coun-  
ties, and how.

Should give  
orders to school  
treasurers on  
county treas-  
urers.

When part of  
Sec. 16 lies in  
two counties.

SEC. 120. The auditor of state shall, annually, apportion the common school funds among the different counties upon the enumeration and returns made to him by the state commissioner of common schools, and certify the amount so apportioned to the county auditor of each county, stating from what sources the same is derived, which said sum the several county treasurers shall retain in their respective treasuries from the state funds; and the county auditors shall, annually, and immediately after their annual settlement with the county treasurers, apportion the school funds for their respective counties, according to the enumeration and returns in their respective offices; and no district which shall have failed to make and return said enumeration, shall be entitled to receive any portion of the common school funds, and, in making such distribution, each county auditor shall apportion all moneys collected on the tax duplicate of any township, for the use of schools, to such township; all moneys received from the state treasury on account of interest on the money accruing from the sale of section sixteen, or other lands in lieu thereof, to the school districts and parts of school districts in the original surveyed township, or fractional townships, to which such land belongs; all money received by the county treasurer, on account of the Virginia Military School Fund, United States Military District, and Connecticut Western Reserve, according to laws regulating the same; and all other moneys for the use of schools in the county, and not otherwise appropriated by law, to the proper school district; and he shall, immediately after making said apportionment, enter the same in a book, to be kept for that purpose, and shall furnish the school treasurers and school clerks each with a copy of said apportionment, and give an order on the county treasurer to each school treasurer for the amount of money belonging to his school district, and take a receipt from such treasurer for the amount thus received; and the said county auditor shall collect, or cause to be collected, the fines and all other moneys for school purposes, in his county, and pay the same over to the county treasurer; and he shall inspect all accounts of interest for section sixteen, or other school lands, whether the interest is paid by the state or by the debtors, and take all the proper measures to secure to each school district its full amount of school funds.

SEC. 121. When any original surveyed township, in which section sixteen has been sold, shall lie in two or more counties, the auditors of the respective counties shall certify to the auditor of the county in which that portion of said township lies containing said section sixteen, the enumeration of youth of school age in that part of said township embraced within their respective counties; and the auditor of said county in which said section sixteen is situate shall appor-

tion the fund derived from said section sixteen to the different portions of said township, according to said enumeration, and shall certify to the auditors of the other counties the amount belonging to the parts of said township situate in the school districts of their respective counties, and draw an order in favor of the treasurers of the other counties on the treasurer of his own county for the amount going to each; and the auditors of the respective counties shall apportion the same, in their respective counties, to such portions or parts thereof as may be entitled thereto.

SEC. 122. The interest on the purchase of any such section sixteen belonging to any such original surveyed township so as aforesaid lying in two or more counties, shall be paid over on the order of the auditor of that county in which such section sixteen is embraced, to the treasurer of the same county, to be apportioned as is pointed out in the preceding section.

Interest on Sec.  
16.

## CHAPTER XI.

### DUTIES OF COUNTY AUDITORS.

SEC. 123. The auditor of each and ever county shall, on or before the 5th day of November, annually, make out and transmit to the commissioner of common schools at Columbus, an abstract of all the returns of school statistics made to him from the several school districts in his county according to the form that may be prescribed by the state commissioner, and a statement of the condition of the institute fund, and such other facts relating to schools and school funds as said commissioner may require; and he shall cause to be distributed all such circulars, blanks and other papers, including school laws and documents, in the several school districts in the county as said commissioner shall lawfully require; in case the county auditor should neglect to prepare and return any of the abstracts or reports as aforesaid, it shall be the duty of the county commissioners to withhold from him all compensation for his services under this act; and said auditor shall also be liable for such neglect on his bond in a sum not less than three hundred dollars nor more than one thousand dollars, on complaint of the state commissioner of common schools; and in case the clerk of the board of education of any school district shall fail to make the annual returns of school statistics to the proper county auditor required by this act, he shall be liable on his bond, in a sum not less than fifty dollars nor more than three hundred dollars, on complaint of the county auditor or of the board of education, in either case, to be recovered in a civil action in the name of the state of Ohio, and when collected to be paid into the county treasury, and applied to the use of common schools in the proper district. And in case of the neglect or failure of the clerk of the board of education of any school district to make the reports as contemplated in this act, and by the time specified, then and in that case the county au-

Auditor to  
make abstract  
to state com-  
missioner.

Liable on his  
bond for neglect  
of duties.

When clerks  
liable on their  
bond.

When auditor  
should appoint  
person to make  
report.

ditor shall appoint some suitable person, resident of the school district, to make such report, who shall receive his compensation in the same manner for said service as is allowed to those officers by law for like services.

Auditor liable  
for losses.

SEC. 124. The clerks and county auditors shall be responsible for all losses sustained by any school district or county, by reason of any failure on their respective parts to make and return the enumeration and abstracts thereof as herein provided, and shall each be liable for the same, in a civil action, at the suit of the state of Ohio; and the amount so recovered shall be apportioned in the same manner as the school funds would have been to the respective counties or school districts, as the case may be.

Allowance to  
county auditor.

SEC. 125. The county commissioners of each county in this state shall annually allow their county auditor a reasonable compensation for his services under this act, not to exceed ten dollars for each school district in his county, to be paid out of the county treasury; provided, that before such allowance shall be made for any one year, said auditor shall present to said county commissioners a statement, officially certified and signed by the state commissioner of common schools, that said auditor has duly made out and forwarded to said state commissioner all returns of statistics or reports for that year as required by this act.

## CHAPTER XII.

### STATE COMMON SCHOOL FUND.

Tax for school  
fund, and how  
distributed.

SEC. 126. For the purpose of affording the advantages of a free education to all the youth of this state, the state common school fund shall hereafter consist of such sum as will be produced by the annual levy and assessment of one mill upon the dollar valuation, on the grand list of the taxable property of the state; and there is hereby levied and assessed annually, in addition to the revenues required for general purposes, the said one mill upon the dollar valuation as aforesaid; and the amount so levied and assessed, shall be collected in the same manner as other state taxes, and when so collected shall be annually distributed to the several counties of the state, in proportion to the enumeration of youth of school age, and be applied exclusively to the support of public or common schools.

## CHAPTER XIII.

### SCHOOL FUNDS AND SCHOOL LANDS.

Fund estab-  
lished.

Auditor of  
state to be  
superintendent;

SEC. 127. There is hereby constituted and established a fund, to be designated by the name of the "common school fund," the income of which shall be appropriated to the support of common schools in the state of Ohio, in such manner as shall be pointed out by law; of which fund the auditor of state shall be superintendent.

SEC. 128. That whenever and so often as any moneys shall be paid into the state treasury, arising from the sale of any lands which heretofore have been or hereafter may be appropriated by congress for the use or support of schools in any original surveyed township, or other district of country in this state, the auditor of state shall forthwith open an account in a book or books to be provided for that purpose, and shall pass the said moneys to the credit of such township, or other district of country; which said money shall constitute an irreducible fund, the proceeds accruing from which shall be paid over and appropriated in the manner which shall be pointed out by law, for the support of common schools within the township, or other district of country having credit for the same, and said funds shall be used for no other purpose whatever.

And how to  
keep account of  
funds from sale  
of school lands:

Irreducible:

SEC. 129. That all moneys paid into the state treasury as aforesaid, shall bear an annual interest of six per centum, which interest shall be cast from the time of the payment of any principal sum, up to the first day of January next succeeding such payment, and on the first day of January, annually, thereafter; and where the same has not been done, the auditor of state shall, in a book or books to be provided for that purpose, open an interest account with every township, or other district of country to which a credit in the irreducible fund aforesaid shall have been passed; and he shall, in such book or books, keep accurate accounts of the accrual and disbursement of all interest accruing from such fund, so as aforesaid belonging to any township or district of country; and the faith of the state of Ohio is hereby pledged for the annual payment of the interest aforesaid to the person who and in the manner which shall be pointed out by law; which said interest shall be appropriated and expended for the support and maintenance of common schools within the township or other district of country entitled as aforesaid to the same.

Rate of interest  
and account  
thereof:

Pledge for its  
payment:

Its appropria-  
tion:

SEC. 130. That for the payment of any interest that shall have accrued and be payable to and for any township or other district of country as aforesaid, the county auditor of the proper county shall, annually, on or after the first day of January, draw an order on the treasurer of state in favor of the treasurer of the proper county for the interest which shall be payable in such county; and upon such order being presented to the auditor of state, he shall thereupon certify an abstract of the amount of interest payable to each township or other district of country in such county; and thereupon, on presentation of said order, the treasurer of state shall pay the amount of interest appearing by said abstract to be due; and the said county treasurer, or the person presenting said order for him, shall indorse on said order a receipt for so much as shall be paid thereon, and shall also sign a duplicate receipt, which shall be lodged with the auditor of state, who shall credit the state treasurer therewith, and charge the several items constituting the aggregate of such abstract to the proper township or other dis-

Order therefor  
and payment:

Receipts, &c.:

Distribution.

trict of country ; and the money so drawn shall be paid out by the county treasurer on the order of the county auditor, in the proportion established by law, to the proper person or persons in each school district authorized to receive the same. And in all cases in which a county line shall divide any original surveyed township, or fractional part thereof, the interest payable in such township shall be received and disbursed in manner aforesaid, by the treasurer of the county wherein the greatest quantity of land belonging to such township shall be situate ; but if it be uncertain in which county the greatest quantity of land in such township be situate, then the said interest shall be received and disbursed by the treasurer of the oldest county in which any part of such township shall be situate.

Donations and bequests to common school fund.

SEC. 131. That whenever any donation or devise shall be made by gift, grant, last will and testament, or in any other manner whatever, of any estate, either real, personal or mixed, to the state of Ohio, or to any person, or otherwise, in trust for the said common school fund, by any individual, body politic or corporate, the same shall be vested in said common school fund ; and whenever the money arising from such gift, grant or devise, shall be paid into the state treasury, the proper accounts thereof shall be kept, and the interest accruing therefrom shall be appropriated according to the intent and design of such donor, grantor or deviser.

Salt lands : pledge of state for interest on.

SEC. 132. The state is hereby pledged to pay, annually, the interest arising from the money paid into the state treasury from the sales of the lands commonly called the salt lands, and the said interest shall be annually distributed in the same manner as is provided for the distribution of the state tax for the support of common schools.

## CHAPTER XIV.

### SALE OF SECTION SIXTEEN.

Section sixteen may be sold.

SEC. 133. That all those lands granted by the congress of the United States for school purposes, known as section sixteen, together with all such as have been granted in lieu of said section sixteen, may be sold, and such sale shall be regulated and conducted according to the provisions of this act.

Proceedings, when vote has not been taken.

SEC. 134. In cases where there has been no vote taken for the sale of any such land, the trustees of any original surveyed township to which such lands may belong, shall, at least thirty days prior to the taking of any such vote, cause not less than eight notices to be posted up in as many of the most public places of such township, notifying the legal voters resident therein to meet at some convenient place and time therein specified, and then and there cast their ballots for or against the sale of any such lands belonging to such township ; and if such vote result in a refusal to sell said lands, the trustees may, in the same manner, authorize the taking of a subsequent vote or votes as often as they may deem proper ; provided, that no such subsequent vote

Trustees may authorize subsequent vote.



shall be taken until one year shall have elapsed since the last preceding vote.

SEC. 135. The trustees of the township shall preside at the taking of such ballots, and shall appoint two clerks, who shall keep two poll-books, containing the names of the voters and the result of the ballot, which poll-books shall be signed by the trustees and clerks; and in case such ballots shall result in favor of a sale, the trustees shall, within ten days after such election, deposit one of said poll-books with the auditor of the county within which said lands (or the greater portion thereof) may be situated, with a copy of the notice given, and the affidavit of one or more of the trustees, stating the manner of giving said notices, and the time and place of putting up the same, which notices, affidavit and poll-book, shall be by said auditor copied into a book for that purpose to be provided, and when so recorded, such record shall be proof of the facts therein stated.

Trustees of township to preside at meeting.  
Poll-book how kept.

Poll-book to be deposited with auditor.

SEC. 136. When such record has been made, the trustees of such township to which said lands belong, shall file a petition in the court of common pleas of the county within which said lands, (or the greater portion of them) may be situate, setting forth the giving of said notice, the taking of said ballot, the result of the same, the filing and recording of the aforesaid papers in the office of the auditor of the proper county, and asking the court to appoint three disinterested freeholders, not resident of the township in which the land may be situated, to divide and value the same in money.

Trustees to petition court of common pleas.

SEC. 137. If such court shall be satisfied that the statements made in the petition are true, the court shall appoint three persons to divide and appraise the same according to the prayer of such petition; and said appraisers, after being first duly sworn before some officer authorized to administer oaths, and taking to their aid, if they think necessary, the county surveyor, shall proceed to divide said lands into such parcels or tracts as in their opinion will be best for the sale thereof, and return in writing such divisions, suitably numbered and described, to the said court, with a just valuation of each separate division in money.

Appointment of appraisers.

SEC. 138. The court, on such return being made, and having been by said court examined, and found in all things regular, just and fair, shall certify the same, and order the same to be entered of record, together with the petition and all the proceedings therein had; a copy of which the trustees shall cause to be filed in the office of the auditor of the proper county, who shall copy the same into a book containing the notice, affidavit and poll-book aforesaid, and immediately following the same.

Returns, etc., to be recorded.

SEC. 139. The auditor of the county, on the recording of said proceedings, shall forthwith cause a notice to be published in some newspaper of general circulation in said county, for five consecutive weeks before the day of sale; and, at the same time, by posting up copies of such notice in six of the most public places in said county, two of which shall be in the township where the lands are situate, and one

The sale.

at the court house, containing a description of the lots or lands to be sold, the valuation thereof, and the time when said land shall be offered at public auction by said auditor, at the door of the court house, at not less than the appraised value thereof; one-third of the purchase money to be paid at the time of sale, and the balance in two annual installments of equal amount, with interest payable annually thereon; and said auditor shall, at such time and place, proceed to offer the same to the highest bidder, at or over the appraisement, and on the terms stated in said notice.

Same.

SEC. 140. In case said lands, or any part thereof, shall not be sold as aforesaid, the auditor may continue to offer the same on the application in writing of the trustees of the township to which said lands may belong, at any future time or times, until they shall be sold, having first given the like notices herein provided to be given on the first sale thereof; provided, that no sale shall be had on any valuation made more than two years prior to the day of the sale.

Re-appraisement.

SEC. 141. The court of common pleas aforesaid is hereby required, on the petition of the trustees aforesaid, setting forth the former appraisement and the subsequent proceedings thereto, and that two years have elapsed, and the land remaining unsold, to direct a new valuation of the same to be made in the manner hereinbefore directed, unless said court, on testimony, shall be satisfied that the former appraisement is a just and fair valuation of said lands; in that case, the court shall make an entry of the fact, which entry shall be certified to and recorded by the auditor in manner aforesaid, and shall have the same effect as the new appraisement.

In case of permanent leases, etc.

SEC. 142. In case said lands are held under permanent leases, or leases for ninety-nine years, the legal or equitable holder of any such lease, wishing to surrender the same, and to purchase the fee of the premises so held by lease, may, with the consent of the trustees of the original township to which such lands belong, file his petition in the court of common pleas of the county in which the largest portion of such lands are situate, setting forth a description of the premises so held, the state of his lease, or his title thereto, that he is desirous of surrendering such lease and becoming the owner of the premises in fee, and asking the court to appoint three disinterested free holders of the county, and not resident of the township wherein such lands are situate, to value the same; and the court on being satisfied of the truth of the fact set forth in such petition, shall appoint such appraisers, who shall proceed under oath, to make a just valuation of the premises in money, without reference to the improvements made thereon, under and by reason of said lease, and shall return such valuation in writing to said court; and the said court, if it shall be satisfied that said valuation is just, shall confirm the same, and order it, with the petition and other proceedings therein to be recorded; provided, that before the trustees of any original surveyed township shall consent to the surrender of any lease as provided in this

act, they shall cause the proposition to be submitted to the electors of said township, at an election to be held and conducted in conformity with the provisions of sections one hundred and thirty-four and one hundred and thirty-five of this act; and, if at such election, a majority of the electors shall vote for such surrender, then, and not otherwise, said trustees shall consent to the surrender, in manner and form as herein provided.

SEC. 143. Any such lessee on producing to the auditor of the proper county, within one year after the making of the same, a certified copy of such petition and appraisal and confirmation, shall be permitted by endorsement thereon, attested by the auditor, to release to the state of Ohio all his interest, title, and claim in and to such lease, for the benefit of the township to which the same may belong; which certified copy of said record and said release, shall be recorded in a book for that purpose to be provided.

Same.

SEC. 144. The purchaser of any such lands at any auditor's sale, or the lessee of any such land held under such lease, on executing his release as aforesaid, shall each forthwith pay to the treasurer of the county, one-third of the purchase money in the first case, and one-third of the valuation in the second, and take the treasurer's receipt therefor; and the auditor on receiving the treasurer's receipt for said first installment, shall give to said purchaser or lessee, a certificate, containing the name of the purchaser or lessee, a description of the premises, the number, amount, and the time of payment of the subsequent installments, and that said purchaser or lessee, his heirs or assigns, on the punctual payment of the sums still due, with annual interest up to the time of payment, shall be entitled to receive a final certificate from such auditor; provided, that such lessee shall produce to the auditor the certificate of the proper officer, that all rents due on such premises have been paid up to the time of surrendering said lease.

Payments to county treasurers, etc.

SEC. 145. Any person wishing to pay any money under the provisions of this act, in part or full payment of any such lands, shall first obtain the certificate of the auditor of the amount due, or to be paid; and on the presentation of the same, the treasurer is authorized to receive the amount therein specified, and shall give to the person paying the same a certificate directed to the auditor, of the payment of said sum of money; and the auditor on the presentation of said certificate, shall give to such person a receipt therefor, credit him with the amount in his books, and charge the treasurer therewith.

Same.

SEC. 146. The county auditor shall keep an account with the county treasurer of all sales made and leases surrendered, and moneys paid thereon by each purchaser or lessee, and shall make a report of the same to the auditor of state on the first day of February, May, August and November in each and every year, which report shall distinguish between the amount paid in as principal and the amount paid in as interest, and from the time of such report the state shall be

County auditor to report sales to auditor of state.

liable to pay interest on all such sums of principal so reported as paid, and the treasurer of state, on receiving a certified copy of the account from the auditor of state, shall be authorized immediately to draw said money paid in as principal, from the county treasurer; and the amount so reported as interest shall be retained in the county treasury and apportioned to the several civil townships and parts of civil townships in the original surveyed township, or fractional township to which said lands belong.

Enforcing payment by sale, etc.

SEC. 147. If any such purchaser or lessee shall fail to make any payment on any tract of land, for the space of twelve months after the time the same shall become due and payable, the auditor of the proper county shall forthwith proceed to sell such tract or tracts of land, with all the improvements thereon, at the door of the court house, to the highest and best bidder therefor, in cash, having first given notice of the time and place of such sale, containing a description of the lands, and the money due and to become due thereon, by publishing the same in some newspaper of general circulation in said county, for six consecutive weeks before the day of sale; and on such sale, no bid shall be entertained for a sum which will not be sufficient to pay all the purchase money due to the state, and all expenses incident to such sale; and in case the said premises can not be sold for that amount, they shall revert to the state, in trust for said township, and be sold in the manner hereinbefore provided for the sale of such lands not under permanent leases, or leases for ninety-nine years.

Same.

SEC. 148. When said lands sell as aforesaid, the purchaser shall pay to the treasurer of the county the amount so bid for said premises; and on producing to the auditor the treasurer's receipt for such payment, the auditor shall give him a final certificate, stating the fact of such sale, the name of the purchaser, the description of the lands sold, the amount for which sold, the payment of the same, and that the purchaser is entitled to receive from the state of Ohio, a deed in fee simple for the same, on producing to the proper officer this certificate.

Final certificate.

SEC. 149. When the purchaser or lessee, his heirs or assigns, shall have made payment in full, the auditor shall give to such person a final certificate, containing, in addition to the former one, the fact of the payment in full, and that said person is entitled to receive, from the state of Ohio, a deed in fee simple for said premises, on the presentation of this certificate to the proper officer or officers.

Deed from the state.

SEC. 150. The auditor of state, upon the filing of any such final certificate in his office, shall make out the draft for a deed therefor, and deliver the same, with such final certificate, to the governor of the state, who shall sign said deed, and cause the same to be sealed with the great seal of the state, and by him delivered to the grantee on demand.

Excess of money on delinquent sale.

SEC. 151. All excess of moneys made on any sale of delinquent lands as aforesaid, after paying all sums due, interest and costs, shall be paid on demand to such delinquent owner,

his heirs or assigns, from the county treasury, on the order of the auditor, if such demand be made within one year from the time of such sale; and if not so demanded, it shall be paid into the state treasury; and unless the same shall be demanded within one year after the same shall have been paid into the state treasury, it shall be applied for the same uses as the lands are subject to.

SEC. 152. The fees for services under this act shall be as follows: The court shall tax such fees on any petition filed in the same, as are allowed for similar services on proceedings in chancery. The county auditor to be allowed one dollar and fifty cents on each sale made by him; for each certificate, fifty cents; for each receipt six cents, to be paid by the purchaser, and the same fees for recording as are allowed to county recorders, to be paid out of the first moneys paid in as interest or rents on such sale or surrender. All printers' fees for advertising, shall be paid out of the county treasury on the order of the auditor, and refunded out of the first moneys received on such sale, as interest or rents. The cost in court shall, in case of a petition by the trustees, be paid out of the county treasury, on the order of the county auditor, and refunded out of the first moneys received from the sale, as interest or rents; in case of a lessee being petitioner, all costs shall be paid by him.

Fees.

SEC. 153. That all those lands granted by the congress of the United States for religious purposes, known as section twenty-nine, may be sold or the permanent leases thereto surrendered, and that said sale or surrender shall be regulated by and conducted according to the provisions of this act in relation to the sale of school lands and the surrender of permanent leases thereto.

Section twenty-nine.

SEC. 154. That section sixteen, donated and set apart for the support of schools, and section twenty-nine, for the purpose of religion, or lands granted in lieu of either, by the directors of the Ohio Company, on the seventh day of January, A. D. 1796, in the following original surveyed townships within the Ohio Company's purchase, to wit: Township number eight, in range number twelve; (township number seven, in range number thirteen; township number eleven, in range number fourteen; township number thirteen, in range number fifteen; and townships number eight, nine, ten, eleven, twelve and thirteen, in range number sixteen, may be sold, or the leases thereto, whether permanent or otherwise, surrendered), and that said sale or surrender shall be regulated by and conducted according to the provisions of this act, and the lessees of any of said lands holding leases for any term less than ninety-nine years, shall be permitted to surrender their said leases in the same manner, and be entitled to all the benefit of the said act as if their leases were for ninety-nine years.

Certain sales of section sixteen and twenty-nine.

## CHAPTER XV.

## MANNER OF CHANGING TOWNSHIP DISTRICTS.

Township districts may adopt provisions of law for village districts.

SEC. 155. The board of education of any township school district may decide to submit, and on petition of one-third of the electors of the district are required to submit, at the first election of township officers after such decision is made or petition received, the question whether such township school district shall be governed by the provisions of this act relating to village school districts, and the board shall give notice of the vote to be taken by posting up written or printed notices in ten or more public places in the township at least twenty days prior to such annual election.

How vote may be taken.

SEC. 156. The election shall be conducted by the township trustees, who shall provide a separate ballot-box and poll-books, and make a return of the vote to the township clerk, and also to the state commissioner of common schools within five days after such election. The persons voting at such election in favor of such change shall have written or printed on their ballots—"School District," and those opposed to such change—"No School District."

How board organized.

SEC. 157. At the annual organization of the township board after any such election, if it be found that a majority of the votes cast were in favor of the change, the board shall select, by vote or lot, six persons to serve as a township board of education, two of whom shall serve for three years, two for two years and two for one year. Said board shall thereafter be governed by the provisions relating to the board of education in village school districts.

## CHAPTER XVI.

## ACTS REPEALED.

Acts repealed.

SEC. 158. That the act entitled "An act for the support and better regulation of the public schools in the town of Zanesville," passed March 12, 1839, and all acts amendatory or supplementary thereof; the act entitled "An act to divide the town of Lancaster into school districts," passed March 13, 1843, (40 vol. Stat. 216,) and the act entitled "An act for the support and better regulation of common schools in the town of Lancaster, Ohio," passed February 19, 1848, (46 vol. Stat. 199,) and all acts amendatory and supplementary thereof; the act entitled "An act for the support and better regulation of common schools in the city of Columbus," passed February 3, 1845, (47 vol. Stat. 230,) and all acts amendatory and supplementary thereof; the act entitled "An act to provide for the support and regulation of public schools in the city of Cleveland," passed March 26, 1850, (65 vol. Stat. 236,) and all acts amendatory or supplementary thereof; the act entitled "An act to provide for the maintenance and better regulation of common schools in the city of Cincinnati," passed January 27, 1853, (51 vol. Stat. 503,) and all acts amendatory or supplementary thereof; so much

of the act entitled "An act in relation to taxes, schools sewers in the city of Toledo," passed March 9, 1849, (47 Stat. 205,) and all acts amendatory or supplementary thereto as may relate to common schools in said city; the act entitled "An act to provide for the reorganization, superintendence and maintenance of common schools," passed March 14, 1853, (51 vol. Stat. 429,) and all acts amendatory or supplementary thereto, except section thirty-one of said act, as amended March 18, 1864; the act entitled "An act to establish a fund for the support of common schools," passed March 2, 1831, took effect June 1, 1831, (29 vol. Stat. 423,) and all acts amendatory or supplementary thereto; the act entitled "An act for the support and better regulation of common schools in the town of Akron," passed February 8, 1847, (45 vol. Stat. 187,) and all acts amendatory or supplementary thereto, or extending the provisions of the same; the act entitled "An act for the better regulation of the public schools in cities, towns, etc.," passed February 21, 1849, (47 vol. Stat. 22,) and all acts amendatory or supplementary thereto; the act entitled "An act relating to common schools," passed and took effect April 10, 1856, (53 vol. Stat. 200,) and all acts amendatory or supplementary thereto; the act entitled "An act to provide for the completion of certain contracts heretofore made by school directors," passed February 6, 1854, (52 vol. Stat. 17,) and all acts amendatory or supplementary thereto; the act entitled "An act to encourage teachers' institutes," passed February 8, 1847, (45 vol. Stat. 67,) and all acts amendatory or supplementary thereto, or extending the same; the act entitled "An act to provide for the appointment of county superintendents of common schools, and defining the duties in certain counties therein named," passed February 8, 1847, (45 vol. Stat. 32,) and all acts amendatory or supplementary thereto, or extending the same; the act entitled "An act further defining the duties of boards of education for incorporated cities, towns, villages, or independent school districts," passed and took effect April 4, 1861, (58 vol. Stat. 56,) and all acts amendatory or supplementary thereto; the act entitled "An act to authorize cities of the second class to receive donations of library buildings and libraries, and to keep up and maintain the same," passed and took effect February 24, 1868, (65 vol. Stat. 12,) and all acts amendatory or supplementary thereto; the act entitled "An act to authorize certain cities therein described to borrow an additional amount of money for school purposes," passed May 4, 1869, (66 vol. Stat. 92,) and all acts amendatory or supplementary thereto; an act to incorporate school district number one, in Perry township, Stark county, passed February 21, 1848, (46 vol. Stat. 223,) and all acts amendatory thereto and supplementary thereto; the act entitled "An act for the support and better regulation of common schools in the Lebanon district, in Warren county," passed February 24, 1848, (46 vol. Stat. 237,) and all acts amendatory or supplementary thereto; the act entitled "An act for the support and better regulation of common schools in the town of Lithopolis, Fairfield

county," passed February 18, 1843, (46 vol. Stat. 185.) and all acts amendatory or supplementary thereof; the act entitled "An act for the support and better regulation of common schools in district No. 4, in Washington township, Preble county, in this state," passed February 15, 1849, (47 vol. Stat. 224,) and all acts amendatory or supplementary thereof; the act entitled "An act to divide the town of St. Clairsville, Belmont county, into two school districts," passed February 23, 1849, (47 vol. Stat. 240.) and all acts amendatory or supplementary thereof; the act entitled "An act for the better support of common schools in Perrysburgh, Wood county," passed March 9, 1849, (47 vol. Stat. 245,) and all acts amendatory or supplementary thereof; section nine of the act entitled an act prescribing the rate of taxation for county, bridge, road and township purposes, passed May 1, 1871, (68 vol. Stat. 116,) and all acts amendatory or supplementary thereof; an act for the support and better regulation of schools in school district No. 1, in Ravenna, passed February 8, 1847, (O. L., vol. 40, p. 121.) and all other acts, whether general or local, so far as inconsistent with any of the provisions of this act, be and the same are hereby repealed; Provided, that the obligations or liabilities incurred, and the rights acquired under the provisions of any of the acts hereby repealed, shall remain and be in nowise altered or affected, but may be enforced as if this act had not been passed. Each district that would be required by any act herein repealed to hold an election of members of a board of education, or to organize a board of education, between the time of the taking effect of this act, and the first Monday of April in the year eighteen hundred and seventy-four, if a city district of the first or second class, or a village district, and the second Monday of April, 1874, if a township or special district, shall hold such election or effect such organization the same as if this act had not been passed; and the school officers in the several school districts of the state shall hold their respective offices and perform their respective duties, until the school officers, their respective successors, herein provided for, shall have been elected, or appointed, as the case may be, and qualified.

SEC. 159. This act shall take effect on the first day of May, eighteen hundred and seventy-three.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed May 1st, 1873.

Saving, etc.



## AN ACT

Amendatory to an act entitled an act for the reorganization and maintenance of Common Schools, passed May 1, 1873.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That sections forty-four, sixty-one and ninety-five of the above entitled act be amended so as to read as follows:

Section 44. Each board of education shall organize on the third Monday of April in each year, by choosing a member of the board as a president, and a clerk, who may or may not be a member of the board; Provided, that in each township district the clerk of the township shall be ex-officio clerk of the board. In each city district the treasurer of the city funds shall be ex-officio treasurer of the school funds of the school district, and in a township district the treasurer of the township funds shall be ex-officio treasurer of the school funds of such district, and in each village and special district the board of education shall choose its own treasurer; Provided, that in the city districts of the first and second classes having no city treasurers other than the county treasurers, the boards of education of such city districts may choose their own treasurers, from their own number, who shall receive no compensation for their services.

Section 61. Whenever the board of education of any school district, except a city district of the first class, shall determine that it is necessary for the proper accommodation of the schools of such school district to purchase a site or sites, and erect a school-house or school-houses thereon, or to do either, and such board shall be of opinion that the purchase of such site or sites, and erection and furnishing of such school-house or school-houses, or either of said purposes, will require a greater tax upon the property of such school district than such board is authorized by this act to levy, and that to provide the means therefor it will be necessary to issue bonds, such board shall make an estimate of the probable cost of such site or sites, and such school-house or school-houses, or of either, and at a general election, or special election called for that purpose, of the qualified electors of the district over which such board has jurisdiction, giving ten days notice, by posting in five of the most public places in said district notices stating the time, place and object of said election, shall submit to said voters at such meeting the question of levying taxes for said purposes, or either of them; and the further questions whether the levy for such purposes shall be made from year to year thereafter, and what amount shall be levied in each year until the actual cost of such site or sites, and the erection of such school-house or school-houses, or either, shall be raised.

Section 95. The said board of examiners shall appoint one of their number to serve as clerk, who shall keep a record of their proceedings, noting the number and date of each cer-

Sections 44, 61, and 95, amended.

Organization of board of education.

Township clerk, ex-officio clerk of board.

City treasurers, ex-officio treasurers of school funds.

Boards of education of village and special school districts choose their own treasurers. Certain city districts elect treasurers of school funds. Entitled to no compensation.

When vote may be taken to authorize board of education to issue bonds and purchase sites and build school houses.

Notice of election.

Levy to be made from year to year.

Clerk of examiners, and his duties.

Rules and regulations of board.

Compensation of examiners; how paid.

May provide rooms, fuel, etc., for examinations.

Cost of same to be paid out of county treasury.

Annual report of examiners.

Bond of clerk of examiners.

Quarterly report of examiners.

Sections 44, 61 and 95 repealed.

tificate given, to whom, for what term of time, for what branches of study, and such other statistics relating to their examinations and proceedings as the state commissioner of common schools may require; and said board may make all needful rules and regulations for the proper discharge of their duties. The members of the board shall be entitled to receive each two dollars for every day necessarily engaged in official service, to be paid out of the county treasury, on the order of the county auditor, exclusive of blanks and stationery, which the county auditor shall furnish; and said board of examiners is authorized to obtain the use of suitable rooms in which to conduct examinations, and procure fuel and light, and employ janitors to take charge of such rooms, and keep the same in order, and the expense of procuring such rooms, fuel and lights, and employing such janitors, is to be paid out of the county treasury, on the order of the county auditor. The said auditor shall grant said order upon the certificate of the chairman of said board of examiners, countersigned by the clerk of said board. It shall be the duty of the clerk of said board of examiners to prepare and forward to the state commissioner of common schools, on or before the first day of October, a statement of the number of examinations held by the board, the number of applicants examined, the number of certificates granted, and for what length of time, the amount of fees received and paid over to the county treasurer, the amount received of the county by the board for their services, and such other important statistics and information in relation to their duties as the state commissioner of common schools may require. The clerk of the board shall deposit with the county auditor a bond, with surety, to be approved by him, in the sum of three hundred dollars, that he will faithfully pay into the county treasury, quarterly, the examination fees required by this act to be paid, and that he will faithfully make the statistical returns required and authorized by this act.

SEC. 2. That said original sections forty-four, sixty-one and ninety-five be and the same are hereby repealed.

SEC. 3. That this act be in force from and after its passage.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed May 5, 1873.

## AN ACT

To enable associations formed for the purpose of preventing Cruelty to Animals, to become bodies corporate.

Election of directors of humane societies.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That from and after the passage of this act, it shall be lawful for any number of persons, not less than seven, who shall be associated together for the purpose of

preventing acts of cruelty to dumb animals, to elect, at any meeting called for that purpose, any number of such persons, not less than three, to serve as directors, who shall hold their offices until their successors are duly chosen.

SEC. 2. That the secretary so elected shall make a true record of the proceedings of the meeting provided for by the first section of this act, and shall certify and deliver the same to the county recorder of the county wherein such meeting shall have been held, which record shall contain the name by which such association shall have determined to be known, whereupon it shall be the duty of such recorder forthwith to record the same in such book of records as is used for recording similar certificates relating to incorporated companies; and from and after the making of such last named record, the said directors and associates and successors shall be invested with the powers, privileges and immunities incident to incorporated companies, and a transcript of the record herein authorized to be made by the county recorder, shall be deemed and taken in all courts and places whatsoever in this state, as evidence that such association is a duly incorporated body.

Secretary's  
record of  
proceedings,  
&c.

Powers, pri-  
vileges, &c.,  
of com-  
panies.

SEC. 3. The directors, who may be appointed or chosen under the provisions of this act, and their successors in office, shall have perpetual succession, by such names as may be designated, and by such name shall be legally capable of contracting and being contracted with, of prosecuting and defending suits, and of acquiring, holding, enjoying, disposing of and conveying such property, real or personal, as may be acquired by purchase, donation or otherwise, for the purpose of carrying out the objects and intentions of such association.

Powers,  
rights, &c.,  
of directors.

SEC. 4. When incorporated as aforesaid, such association may elect such officers, and make rules, regulations and by laws, as by its members may be deemed necessary or expedient for their own government, and the proper management of its affairs.

Officers,  
rules, &c.

SEC. 5. If at any time said board of directors shall become vacant, either in whole or in part, by death, resignation or otherwise, the same may be revived or such vacancy filled in the manner provided in the first section of this act for the original organization of said board, or in such manner as may be provided in the by-laws of the association; and the majority of the directors shall constitute a quorum for the transaction of business.

Revival,  
filling vacan-  
cies, &c.

SEC. 6. This act shall take effect from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed May 1, 1873.

## AN ACT

To fix the times for holding the District Court in the counties of Henry, Defiance, Paulding, Fulton and Williams, for the year 1873.

Times of holding district courts in 1873.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the district courts for the year 1873, shall be held in the following counties so as to commence therein as follows: In the county of Henry on the first day of July; in the county of Defiance on the second day of July; in the county of Paulding on the third day of July; in the county of Fulton on the fifth day of July; and in the county of Williams on the seventh day of July: Provided, that nothing herein contained shall be construed to change or in any manner interfere with the times fixed by the judges of the third judicial district of this state, for holding courts in the remaining counties of said district.

SEC. 2. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,

*President of the Senate.*

Passed May 1, 1873.

## AN ACT

To provide for the establishment and maintenance of Public Libraries.

Question of public library to be submitted to electors.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the trustees of any township in which is situated any city or incorporated village, having a population of not more than one thousand, on the petition of twenty electors thereof, shall, upon four weeks public notice, published in some newspaper of general circulation in the county wherein said township is situated, submit to the electors of such township, at some general election in April or October, the question whether there shall be a public library established in such township for the use and benefit of the citizens thereof, and those voting at such election in favor of such library, shall have put upon their ballots the words, "Public Library—Yes," and those voting thereat against such library the words, "Public Library—No;" and if a majority of such electors voting at such election shall vote in favor thereof, the trustees aforesaid shall have authority annually to levy upon all the taxable property of such township, a tax not exceeding one-tenth of one mill on the dollar valuation thereof, to be collected as other taxes and

Levy of tax.

applied to the establishment and maintenance of a library as aforesaid, and the procuring of a suitable room or rooms for the same.

SEC. 2. The township trustees shall appoint three trustees of said library, and confer upon them such authority as may be necessary to render any library so established of public utility; and said library shall be conducted and cared for under such rules and regulations as such library trustees may prescribe.

Trustees of library; appointment of.

SEC. 3. Any township availing itself of the provisions of this act shall have authority, by and with the consent of the local boards of education or other school officers having the same in charge, to receive and place in said library, the books known as the Ohio school library books, subject at all times to the call of said boards of education or other school officers as aforesaid.

Transfer of books of school libraries to township library.

SEC. 4. This act shall take effect and be in force from its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed May 1, 1873.

## AN ACT

To authorize the Boards of County Commissioners to contract with Railroad Companies for use of bridges.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the board of commissioners of any county in the state of Ohio, be and they hereby are authorized to contract with any railroad company or companies for the construction, use and maintenance of wagon tracks in connection with railroad bridges.

County commissioners may contract for use of bridges.

SEC. 2. This act shall take effect from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed May 1, 1873.

## AN ACT

To authorize the purchasers of unfinished railroads to complete the same.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That where any railroad company, organized

Lawful for  
purchasers of  
unfinished  
railroad to  
complete the  
same.

under the laws of this state, has purchased from any other railroad company, in good faith, and with the view of completing the same, any road bed or unfinished line of road, or any part thereof, it shall be lawful for the company making such purchase to proceed to complete said road, or any part thereof, the same as might have been done originally by the company selling the same: Provided, that the road, or part thereof so purchased, shall be completed and put in running order within three years from the passage of this act.

SEC. 2. That this act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed May 3, 1873.

## AN ACT

To amend section three of an act to regulate inclosures and to provide against trespassing animals, passed January 17, 1840, and took effect August 1, 1840. (S. & C., pages 649 and 650.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section three of the above recited act be so amended as to read as follows:

When trustees shall direct as to repair of partition fences, etc.

Section 3. That when any controversy shall arise about the rights of the respective owners of partition fences and their obligation to keep up and maintain the same in good repair, if they cannot agree among themselves, either party may apply to the trustees of the township in which such fence may be situate, who, after a notice of not less than ten days to all parties who may have any interest in the title or possession of said premises and the repair or construction of said fence, shall proceed, on application as aforesaid, to view such fence, and to assign to each party in writing, his equal share of such partition fence, to be by him kept up and maintained in good repair, which shall be in all respects a good and substantial fence, and which award or assignment shall also provide the time within which such fence shall be constructed or repaired, provided the same shall be necessary, which assignment shall be recorded by the clerk of said township in a book to be provided for that purpose by the trustees of said township, and shall be binding upon the parties, and upon all succeeding occupants of the lands, for the period of one year thereafter, and until a new assignment shall be made, as prescribed in section four of the above recited act; said trustees shall be entitled to demand and receive for each day's service so rendered, the sum of one

Assignment to be recorded.

dollar and fifty cents each, to be paid in equal proportions by the respective parties. It is also further provided, that after such assignment shall be made by the trustees as aforesaid, and either party fails to comply with the award of said trustees, then the party aggrieved shall give to the other party fifteen days' notice in writing, requesting him to comply with the award of said trustees, and on failure to comply, the party so giving notice, shall have the right to build or repair said partition fence, charging for the labor and material so furnished what it is worth at the time in money. After the completion of such building or repairing, the party doing the same shall present to the other party a statement in writing, giving the amount of such labor and material, and demand payment therefor. In case of failure to pay the account so presented, it shall be the duty of the trustees, or any two of them, of said township, upon the demand of either party, to proceed to examine said fence, and estimate the value thereof, which being determined, they shall give to each party a statement in writing of the value of such labor and material, and on failure in this case on the part of the party who should pay the amount of such award by said trustees, then the other party may proceed to collect the same in any court of competent jurisdiction, and the statement of the trustees as aforesaid, shall be held to be prima facie evidence of the value and justice of the award so made by them, and judgment shall be rendered accordingly, with the costs of suit, including the extra expenses for said trustees at the rate per diem as above mentioned, which judgment, upon a transcript thereof being filed with the recorder of the county, and recorded in the lien book in his office, shall have a lien on the real estate so enclosed by said partition fence, to be enforced as other liens upon real estate. In case the fence in controversy shall be upon a township or county line, then the trustees of said adjoining townships shall have concurrent jurisdiction, and the trustees of both townships, or any two of each, may be summoned by either party; that each and every trustee of any township in this state who shall refuse or neglect to do and perform all and singular the duties enjoined on him or them by this act, he or they shall be liable for a penalty in any sum not less than five nor more than fifty dollars, to be recovered in the name of the state of Ohio, before any justice of the peace of the county, on the complaint of any citizen thereof, and appropriated to the common school fund of the township where the suit is brought: Provided, that if any such trustee shall conceive himself aggrieved by the judgment of such justice, he shall have the same right of appealing as is given in civil suits or cases, and under similar restriction; and it is further provided, that none of the provisions of this act shall apply to cities of the first and second class.

SEC. 2. That original sections three be and the same are hereby repealed.

When a party fails to comply with order of trustees.

Judgment against delinquent party, etc.

Concurrent jurisdiction on county or township lines.

Remedy for party aggrieved.

SEC. 3. This act shall take effect from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed May 3, 1873.

## AN ACT

To authorize colleges and other institutions of learning to change their location, and to erect and maintain academies auxiliary thereto.

Change of  
location of  
colleges, & c.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That when colleges and other institutions of learning have been established under special acts of incorporation, and by the provisions of such acts the same are located at particular places, that the trustees of such colleges and institutions are hereby authorized to change the location thereof to such other places as they may deem proper, and to erect and maintain academies and other schools auxiliary thereto: Provided, that the provisions of this act shall not apply to colleges or other institutions of learning endowed by voluntary contributions.

Assent of  
board of  
trustees  
requisite.

SEC. 2. This act to have no effect upon the charter of any college or institution of learning until the provisions thereof are agree to by a resolution of the board of trustees thereof.

SEC. 3. This act to take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed May 3, 1873.

## AN ACT

To amend section one hundred and seventy-four of an act entitled an act to provide for the organization and government of Municipal Corporations, passed May 7th, 1869, and as amended January 27th, 1873.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section one hundred and seventy-four of the above recited act be so amended as to read as follows:

Section 174. In the absence, inability or disability of the judge, it shall be lawful for the mayor to select a reputable



member of the bar, or a justice of the peace, residing within the city, to hold said court, and for the time being such person shall have the jurisdiction and powers conferred upon judges of police courts, and shall be styled "acting police judge," in which style he shall sign all process and records during the time he shall serve, and shall perform all other official acts pertaining to said office, and the court of this state shall take judicial notice of every such selection by such mayor.

Mayor to appoint person to act in absence of police judge.

SEC. 2. That said section one hundred and seventy-four, as amended January 27, 1873, be and the same is hereby repealed.

Section repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed May 3, 1873.

## AN ACT

To provide for vacating ditches, drains or water-courses.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That whenever any ditch, drain or water-course, or any part of any ditch, drain or water course, which heretofore has or hereafter may be established by the county commissioners of any county in the state of Ohio, now is or hereafter may become unnecessary for the purpose for which the same was ordered to be constructed, it shall be lawful for the board of county commissioners of such county to vacate such ditch, drain or water-course, or such part thereof, in pursuance of the provisions of this act.

Vacation of useless ditches, &c.

SEC. 2. When any person or persons owning lands which heretofore has been or hereafter may be ordered to be assessed, in whole or in part, for the construction of such ditch, drain or water-course, shall present a petition, signed by such person or persons, to the board of commissioners of such county, stating that such ditch, drain or water-course, or a part of such drain or water-course, has been rendered useless, it shall be lawful for such board of commissioners, upon being fully satisfied, either upon personal view or upon hearing the testimony of witnesses, of the truth of the facts stated in such petition, to order and direct that such ditch, drain or water-course, or such part thereof, shall be vacated, and such order when made by said board shall be entered upon the journal of such board, and then and from thenceforth such ditch, drain or water course, or such part thereof, shall be vacated: Provided always, that such board of commissioners shall not

Duty of commissioners to act on petition.

Vacation.

proceed to hear such petition until some one or more of the signers of such petition shall prove to the satisfaction of such board that a notice of the time and place when and where such petition will be presented to such board of commissioners, and of the object and prayer of such petition has been first duly published for four consecutive weeks immediately preceding the presentation of such petition, in some newspaper published in such county and of general circulation therein, and until a copy of such notice shall be filed with such petition with such board of commissioners.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed May 3, 1873.

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## AN ACT

Supplementary to an act entitled "An act to complete the Geological Survey of the State of Ohio," passed April 29, 1872. (O. L., volume 69, page 201.)

Time for  
completion  
of survey  
extended to  
15th of Feb-  
ruary, 1874.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the above mentioned act shall continue in force from the first day of June, 1873, to the fifteenth day of February, 1874: Provided, that the salaries prescribed by the ninth section of said act, or any of them, shall be at the rates therein fixed.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed May 3, 1873.

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## AN ACT

To require County Commissioners to construct approaches to bridges.

Duty of com-  
missioners in  
construction  
of approach-  
es, &c.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of any county in this state shall cause to be constructed, without unnecessary delay, good and sufficient approaches or ways to bridges which have been erected or shall be erected by such commissioners; and

6-1-115  
711 115

the commissioners shall contract for the construction thereof in the same manner as is provided by law for contracting for the erection of bridges by county commissioners; and the costs of constructing such approaches or ways shall be paid from the bridge fund of the county, on the order of the commissioners: Provided, that the trustees of the several townships shall cause to be built and kept in repair all bridges and culverts (except upon improved and free turnpike roads), where costs for construction does not exceed seventy-five dollars; and that the township trustees are hereby authorized to levy a tax for the payment of the same.

Duty of  
township  
trustees.

SEC. 2. This act shall take effect from its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed May 3, 1873.

## AN ACT

To amend an act entitled "An act relating to the duties of the Auditor of State," passed May 2, 1871 (O. L., volume 68, page 126.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the above recited act be so amended as to read as follows:

Section 1. It shall be the duty of the auditor of state to include in his annual report a detailed statement of the public funded and unfunded indebtedness of each county, township, city, incorporated village and special or "separate" school district in this state, with the rate of interest payable thereon, the date of maturity, and the purpose for which the same may have been created; and the auditor of state is hereby authorized to make and prescribe all such forms, rules and regulations, to be used and observed by the several officers in the second section of this act named, as may be necessary to enable him to obtain the information in this section contemplated.

Auditor of  
state shall in-  
clude a state-  
ment of local  
indebtedness  
in his annual  
report.

Section 2. It shall be the duty of the county auditor of the several counties of this state to obtain the information required in the preceding section from the books and records of his office, from the various township clerks and township treasurers, auditors and treasurers or clerks of cities, clerks of incorporated villages and clerks of special or "separate" school districts, as the same may exist on the first day of September annually, and to make and transmit to the auditor of state, on or before the first day of October annually, full and complete abstracts of the information so obtained.

Duty of  
county audi-  
tors to obtain  
and furnish  
statements.

Also, as to provision made for payment of indebtedness.

Duty of other officers.

Section 3. It shall be the further duty of the above named officers to make at the same dates full and complete returns of any provision of money made for the payment of any indebtedness, what amount has been collected, whether remaining in the county, township, city, village or school district treasury, or, if temporarily loaned or invested in any manner, a full and particular statement of such loan or investment. The various officers of the several townships, cities, incorporated villages and school districts as above named, are hereby authorized and required to furnish the auditors of their respective counties, with the information sought in the preceding section, in such manner and at such time as may be prescribed in blanks to be furnished them by said county auditor.

SEC. 2. That the above recited act be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed May 3, 1873.

## AN ACT

To amend section seven of an act entitled "An act to provide for the organization and government of Municipal Corporations," passed May 7th, 1869, as amended April 20, 1870. (O. L., volume 68, page 73.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section seven of the above recited act be amended so as to read as follows:

Population authorizing advanced grades.

Section 7. No city of the second class shall be advanced to the grade of a city of the first class until it shall have attained a population of twenty thousand. No incorporated village shall be advanced to the grade of a city of the second class until it shall have attained a population of five thousand. No incorporated village for special purposes shall be advanced to the grade of an incorporated village until it shall have attained a population of two hundred, and no incorporated village shall hereafter be organized until the inhabitants to be embraced in it are two hundred in number.

SEC. 2. That section seven (7) of the above recited act be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed May 3, 1873.

## AN ACT

To amend sections seven and eight of an act entitled an act defining the duties of persons taking up estray animals, and securing to the owners of boats and other water crafts found going adrift, their property therein, passed and took effect March 23d, 1840, (S. & C., volume 2, page 1415); also, to amend section one of the amended act passed and took effect March 26th, 1841, (S. & C., volume 2, page 1419.)

**SECTION 1.** *Be it enacted by the General Assembly of the State of Ohio,* That sections seven and eight of the above recited act, passed March 23d, 1840, be so amended as to read as follows:

**Section 7.** That the owner or owners of any stray or strays taken up as aforesaid, on making satisfactory proof of his or their right thereto, before any justice of the township, within four months after the same was taken up, shall be entitled to demand and receive such stray or strays, with the increase, if any, having first paid as a reward to the taker up for each horse kind, the sum of one dollar; for every head of neat cattle, fifty cents; for every sheep, hog or goat above six months old, twelve and a half cents, together with the legal fees paid by the taker up, and reasonable charges for keeping such strays; but if the taker up and the owner should disagree on the sum to be paid for keeping as aforesaid, it shall be lawful for either party to apply to a justice of the peace within the township to nominate three disinterested freeholders, whose duty it shall be to make such allowance for keeping such strays as to them shall appear just, and forthwith certify the same under their hands to such justice upon oath or affirmation, and if the owner shall fail or refuse to pay the sum adjudged, together with the fees as aforesaid, within forty days thereafter, it shall be lawful for the taker up to deliver such stray or strays to any constable of the township, who shall, after giving ten days' notice by advertisement at three of the most public places in the township of the time and place of sale, proceed to sell the same for ready money to the highest bidder, to satisfy the costs and charges aforesaid; and the constable, after paying to the taker up the fees awarded and charges aforesaid, and deducting one dollar for his own fees, shall pay the remainder to the owner of such strays.

**Section 8.** That when the appraised value of any stray or strays of the same species, taken up as aforesaid, does not exceed seven dollars for the whole number taken up and reported at one time, and no person shall appear within four (4) months after such taking up, and prove his or her right thereto, the right to such stray or strays shall vest in the taker up; but if the valuation shall exceed seven dollars, and no owner appear as aforesaid, the taker up shall apply to the justice to whom the return was made of the appraisement, marks, brands, size, color, and supposed age of such

Proceedings  
by owner to  
reclaim  
strays.

Sale, in default of payment of costs.

What strays  
shall vest in  
taker up.

Sale of animals not vesting in taker up.

Duty of justice and constable.

stray or strays, for a copy of such return, which copy said justice is hereby required to give from his stray book, and the taker up shall forthwith deliver the same to a constable of the township, and the constable shall immediately advertise such stray or strays for sale at three public places within the township, mentioning the time and place of sale, which shall be at least ten days from the time of advertising, and which sale shall be made at some public place in said township, if of the horse kind, but if of any other kind of strays, the same shall be sold at the residence of the taker up between the hours of ten o'clock A. M. and four o'clock P. M., at which time and place the taker up shall deliver such stray or strays to the constable, and take his receipt therefor, and transmit the same to the township treasurer.

Strays to vest in taker up after four months.

SEC. 2. Be it further enacted, that section one of the above recited act, passed March 26th, 1841, be amended so as to read as follows :

Section 1. That when the value of any estray or estrays of the same species taken up under the act to which this is an amendment, shall be found by appraisal, as provided for in the third section of the said act, to be of any sum not exceeding seven dollars for the whole taken up and reported at one time, and no person shall appear within four (4) months after such taking up, and prove his or her right thereto, the right to such stray or strays shall vest in the taker up.

SEC. 3. That sections seven (7) and eight (8) of the above recited act, passed March 23, 1840, and section one (1) of the amended act, passed March 26th, 1841, be and are hereby repealed.

SEC. 4. This act shall be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate*

Passed May 3, 1873.

## AN ACT

To amend section sixteen of an act entitled "An act to amend sections one, fifteen, sixteen, seventeen and twenty of an act entitled an act to authorize the county commissioners to lay out and establish free turnpike roads, and to repeal certain acts therein named, passed April 15th, 1867," passed April 26th, 1871. (Ohio Laws, page 81.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section sixteen of the above recited act be so amended as to read as follows :

Section 16. That persons liable to do two days labor annually on the public highways, residing within the bounds of any free turnpike road, shall do the same under the direction of the supervisor of roads of their respective road districts, upon such free turnpikes and other roads within said districts, proportioning said labor in each road district to such free turnpike and other roads therein, in such manner as the trustees of the township, after consultation with the commissioners of such free turnpike, shall direct, and in accordance with the laws relating to supervisors of roads. If the trustees aforesaid shall fail to direct the supervisors of any road district, the whole or any part thereof being within the bounds of any free turnpike road, to proportion the labor as provided in this section, annually before the first day of May, and to give notice thereof in writing to the commissioners aforesaid, then all persons liable to do two days labor annually on the public highways, residing within the bounds of any free turnpike road, shall do the same under the directions of the commissioners or agents of said road, after being notified three days previous to the time of doing said two days work, of the time and place of doing the same, between the first day of May and the first day of October; Provided, they may pay to said superintendent the sum of three dollars in lieu of said two days work, if paid when notified to do the work; in case of refusal or neglect to do the same, the person so offending shall pay a fine of one dollar, and shall further be liable, in cases of non attendance, to the amount allowed for two days work, to be collected by said road commissioners in the same manner that supervisors are authorized to collect in similar cases.

SEC. 2. That said section sixteen of the above recited act be and the same is hereby repealed.

SEC. 3. This act shall be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed May 3, 1873.

Two days labor by persons liable, under direction of supervisor.

When the work shall be done under direction of commissioners or agents.

Fine for neglect or refusal to perform labor.

## AN ACT

Further providing for converting toll roads into free roads.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That at any time after the passage of this act, the duly constituted officers, after first obtaining the written consent of the owners of a majority of the stock of any toll road or incorporated turnpike company in this state, may make a proposition to the county commissioners of the county

Proposition for sale of road on consent.

in which the same or any part thereof may be located for the sale of such road, in order that the same may be converted into a free road as hereinafter provided.

Appraise-  
ment of said  
road.

Proposition  
of sale at  
appraised  
value.

Conditions of  
acceptance.

Petition for  
purchase.

Bridges and  
culverts to  
be paid for  
by county.  
&c.

SEC. 2. It shall be the duty of the county commissioners, upon receiving such proposition of sale as aforesaid, to appoint three competent disinterested freeholders of said county, who shall, upon actual view thereof, make and return to said commissioners, under oath, their appraisal of the actual cash value of the road so proposed to be converted into a free road; said appraisers shall also state in their report to the county commissioners the actual cash value of the bridges and culverts which have been built by such company. It shall be the duty of the county commissioners, at their next regular meeting after receiving the report of the appraisers as aforesaid, if they deem the same a fair valuation, to make a proposition to the duly constituted officers of such toll road or incorporated turnpike company for the purchase of the same at the appraised value, as was reported by the appraisers appointed by said commissioners for that purpose, on the conditions that a majority of the resident land owners along and adjacent to the line of any such toll road or incorporated turnpike company whose lots and lands will be assessed for the purchase of the same, shall petition the county commissioners, asking such assessment as provided for in section three of this act. The duly constituted officers of any such toll road or incorporated turnpike company as aforesaid, after first obtaining the written consent of the owners of a majority of the stock of any such company, may accept the proposition of said commissioners for the purchase of said road or any part thereof, situated in any such county; and said acceptance shall be binding upon such company for the space six months succeeding the date of such acceptance.

SEC. 3. After the filing of such acceptance with the commissioners, it shall be lawful for the resident landowners along and adjacent to the line of any such toll road or incorporated turnpike company, whose lots and lands will be assessed for the purchase of the same, to petition the county commissioners of the county through which the same or any part thereof may run, for the purchase of said road at the appraised value as reported by the appraisers as provided for in section two of this act; that the bonds of the county be issued to said company according to its acceptance, and that a sum sufficient to pay the amount with which they will be charged, together with the interest that may be assessed upon the lots and lands which would be benefited by the conversion of said toll road into a free road within no greater distance than two miles thereof: Provided, however, that the cash value of the bridges and culverts which have been built by said company, as appraised by the appraisers according to the provision of section two of this act, shall be paid by the county commissioners of any such county out of the bridge fund of the county, less any amount they may have heretofore appropriated; and in ascertaining what lots and lands are benefited, and to what extent each piece shall



be assessed for said purchase, and as to whether a majority of the owners thereof have petitioned therefor, the county commissioners, auditor and treasurer shall have the same power and authority, and be governed in the assessment and collection of taxes to pay for the road so purchased, and in all other respects, so far as the same may be applicable by the act of March 29, 1867, to authorize county commissioners to construct roads on the petition of the majority of resident land owners along and adjacent to the line of said road, and all acts supplementary and amendatory thereto. After the purchase of any such toll road by the commissioners as aforesaid, the same shall immediately thereupon become a free road, thereafter to be kept in repair in the same manner that improved roads now are or may hereafter be kept up.

To be free  
road there-  
after

SEC. 4. The officers and other persons performing service under this act shall be allowed the same fees as they are allowed for the like services in other cases, and may be paid out of the fund created by this act, or out of any funds in the county treasury not otherwise appropriated.

Fees for ser-  
vices.

SEC. 5. That sections fourteen and fifteen of an act to provide for the keeping in repair of gravel or macadamized roads heretofore or hereafter constructed under the laws of the state of Ohio, and to authorize county commissioners to convert such of said roads as charge and receive toll into free roads, passed May 7, 1869, be and the same are hereby repealed.

Sections re-  
pealed.

SEC. 6. This act shall take effect from its passage.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed May 3, 1873.

## AN ACT

To authorize the Governor to re-convey certain lands.

WHEREAS, On the 1st day of July, 1868, Henry J. Tressler and David Shoemaker conveyed by general warranty deed to state of Ohio the following described tract of land, situated in the town of Napoleon, Henry county, Ohio, to wit: Fifty feet off the east side of a certain tract of land in section thirteen (13), township five (5), north, range six (6), east, beginning at a point on the south line of the towing path of the Wabash and Erie canal, eleven (11) feet west of the east line of the land bought by W. P. Gregory of Joseph Hannan, and running parallel with said east line southwesterly to the north bank of the Maumee river, thence westerly along said north bank of said river to the east line of the land sold by said W. P. Gregory to Benjamin Bordner, thence northerly along

Description  
of tract of  
land.

said Bordner's east line to the south side of the towing path aforesaid, thence easterly along said towing path one hundred and ninety-six (196) feet to the place of beginning, for and in consideration that the board of public works would execute to said Tressler and Shoemaker a lease of water power to be used on said premises; and,

WHEREAS, Said lease was, on the 28th day of March, A. D. 1872, annulled and canceled; therefore,

Governor to convey same by quit claim to Henry J. Tressler and David Shoemaker.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the governor of the state is hereby authorized to convey from the state of Ohio, by quit claim deed to Henry J. Tressler and David Shoemaker, their heirs and assigns, the aforesaid described premises.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed May 3, 1873.

## AN ACT

To amend section eight (8) of an act entitled "An act concerning Divorce and Alimony," passed March 11th, 1853. (S. & C., page 513.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section eight of the above recited act be amended so as to read as follows:

Where applications for divorce shall be made.

Section 8. That all applications for divorce, or for alimony, under the provisions of this act, shall be made in the county where the complainant bona fide resides at the time of making such application, or in the county where the cause of complaint arose or took place, and the court shall hear and determine the same, whether the marriage took place or the cause of divorce occurred within the state or elsewhere: Provided, the petitioner, except for alimony alone, shall be a resident of the state at least one year next before the filing of his or her petition in the clerk's office of said court.

SEC. 2. That section eight of the above recited act be and the same is hereby repealed.

SEC. 3. This act shall take effect from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed May 3, 1873.

## AN ACT

To amend section one of an act entitled "An act to amend sections 135 and 145 of an act entitled an act of the jurisdiction and procedure before justices of the peace, and of the duties of constables in civil courts," passed March 14, 1853, passed March 11, 1872. (O. L., vol. 69, p. 27.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section one (1) of the above recited act be so amended as to read as follows:

Section 139. That justices of the peace shall have exclusive jurisdiction in all cases of replevin where the value of the specific personal property, the possession of which is sought to be recovered, is less than one hundred dollars, and concurrent jurisdiction with the court of common pleas in all cases where the value of such property is one hundred dollars and not more than three hundred dollars.

Jurisdiction  
of justices in  
cases of  
replevin.

Sec. 145. Whenever the appraised value of the property so taken shall exceed three hundred dollars, the justice shall certify the proceedings in the case to the court of common pleas of his county, and thereupon shall file the original papers, together with a certified transcript of his docket entries, in the clerk's office of said court, the case there to be proceeded in as if such suit had been commenced in said court.

Proceedings  
when prop-  
erty exceeds  
\$300 in value.

SEC. 2. That the above recited act be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed May 3, 1873.

## AN ACT

Making Appropriations for the fiscal year 1873, and the first quarter of the fiscal year 1874.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That in addition to former appropriations made for the year 1873, and the first quarter of the year 1874, there be and is hereby appropriated out of any moneys in the treasury belonging to the general revenue fund, not otherwise appropriated, the following sums, to wit:

## AGRICULTURE.

- Agriculture.** For the encouragement and improvement of the agricultural interests of the state, and for contingent expenses of the office of the board of agriculture, to be expended as the state board of agriculture may deem most conducive to that end, and to be paid to the president of that board, three thousand dollars.
- J. H. Klippart.** For reimbursing John H. Klippart in fitting up and painting room No. 100, in State House, for geological specimens, one hundred and fifty-two 84-100 dollars.
- Horticulture.** For the encouragement of horticulture, to be paid to the president of the Ohio horticultural society, five hundred dollars.
- Carpets.** For purchase of carpets for the two rooms used by the agricultural board, four hundred dollars.

## ARSENAL.

- Arsenal.** To pay for labor at the state arsenal, including tools and fuel, transportation and materials, to be expended under the direction of the adjutant general, seven hundred forty-six dollars and ninety-three cents.
- Deficiency.** For deficiency, preceding February 15, 1873, one hundred seventy-six dollars and thirty-three cents.

## MILITARY CLAIMS.

- Certain Morgan raid claims.** For the payment of Morgan raid claims transferred from classes one and two to class three of said claims, under authority of the act entitled an act to provide for a re-separation and classification of the Morgan raid claims, passed April 27, 1872, eleven thousand five hundred and thirty nine dollars and fifty-six cents.
- To pay for claims allowed under the various acts to establish a board of military claims, and subject to all the provisions and requirements of said acts, (\$48,098 05-100) forty-eight thousand ninety-eight and 5-100 dollars.

## CONTINGENT EXPENSES OF THE GOVERNOR AND OTHER STATE OFFICERS.

- Governor.** For contingent expenses of the governor, seventeen hundred dollars.
- Auditor.** For contingent expenses of the auditor of state, seventeen hundred and nineteen dollars.
- Treasurer.** For contingent expenses of the treasurer of state, eight hundred dollars.
- Secretary.** For contingent expenses of the secretary of state, twelve hundred and thirty dollars.
- Comptroller.** For contingent expenses of the comptroller of the treasury, two hundred and seventy-five dollars.
- School commissioner.** For contingent expenses of the commissioner of common schools, two hundred and forty-one dollars, and for the distribution of the school laws, one hundred dollars.
- For traveling expenses of the common school commissioner,

in the discharge of his official duties, two hundred and eighteen dollars.

For contingent expenses of attorney general, one hundred dollars. Attorney General.

For contingent expenses of state librarian, five hundred dollars. Librarian.

For contingent expenses of clerk of supreme court, four hundred (\$400) dollars. Clerk supreme court.

For contingent expenses of the clerk of the senate, after the adjournment of the legislature, fifty dollars, and for contingent expenses of the clerk of the house, after the adjournment of the legislature, fifty dollars. Senate and house clerks.

For contingent expenses of the supervisor of public printing, one hundred dollars. Supervisor of printing.

For employing an expert or experts by railroad commissioner to examine railroad bridges, to be paid on vouchers endorsed by the railroad commissioner, five hundred dollars. Railroad commissioner's clerks.

For extra clerical hire in the office of railroad commissioner, two hundred dollars.

For the expenses of standing and select committees of both branches of the general assembly, five hundred dollars, to be paid on the order of the chairman of the respective committees, and endorsed by the chairman of the committee on claims of the respective houses. Legislative committees.

For the contingent expenses of the general assembly, upon vouchers certified by the chairman of the committee on claims and approved by the presiding officer of the respective houses, three hundred dollars. General assembly.

For the distribution of the laws, journals and public documents, sixteen hundred dollars, and to pay deficiencies existing February 15, 1873, four hundred and sixty dollars. Distribution of laws, &c.

For expenses of special elections, two hundred dollars. Special elections.

#### INSURANCE DEPARTMENT.

For the payment of actuary and clerks, five thousand two hundred and forty-four dollars. Insurance clerks, &c.

For contingent expenses of office, seven hundred dollars.

#### LEGISLATURE.

For the per diem and mileage of the members of the general assembly, and per diem of their clerks, assistant clerks, sergeant-at-arms, assistant sergeant-at-arms, pages and messengers, under the laws and resolutions of the senate and house, forty-five thousand dollars. Per diem and mileage.

#### LIBRARY—STATE.

For books, magazines and newspapers for the state library, seventeen hundred dollars, and the librarian is authorized to sell not exceeding fifty copies of Swan and Saylor's statutes, at not less than cost, and apply the proceeds to the purchase of miscellaneous books for the library. Books, &c.

For erecting second and third stories of shelving, with alcoves, according to original plan, twelve thousand dollars. Shelving, &c.

## LAW LIBRARY.

**Books.** For books for the library for the supreme court, to be purchased under the direction of the chief justice, one thousand dollars.

**Curtains, &c.** For curtains and fixtures for windows in supreme court room, forty-five (\$45) dollars, to be expended under the direction of the chief justice.

**Salaries.** For salary of assistant law librarian and messenger of the supreme court, eight hundred dollars.

## MILEAGE OF COUNTY TREASURERS.

**Mileage.**

For mileage of county treasurers in settling with the auditor of state, to be computed by the nearest usual route from the county to the seat of government, three thousand seven hundred dollars.

## NIGHT-WATCH.

**Night-watch.**

For salary of night-watch of the state house, to be employed by the treasurer of state, and who shall serve as night-watch of the treasury, six hundred dollars.

## BOARD OF PUBLIC WORKS.

For salaries of the members of the board of public works, eighteen hundred dollars.

**Salaries.**

For services of the resident engineers, twenty-seven hundred dollars.

**Chutes over  
State dams.**

For salary of clerk, twelve hundred dollars.

For building chutes over the state dams on the Scioto river, as provided for by act passed January 31st, 1871, two thousand dollars.

[For the enlargement of the Kirkersville feeder of the Licking summit reservoir (which enlargement the board of public works are hereby authorized to make), eight thousand dollars.]

**W. R. and M.  
road.**

There is hereby appropriated for the superintendence and repairs of the Western Reserve and Maumee road whatever sums have been or may be collected and paid into the state treasury to the credit of the said road, between the 15th day of November, 1872, and the 15th day of February, 1874.

**Re-appropri-  
ation for lands.**

There is hereby reappropriated any sum which may remain unexpended of the appropriation of six hundred dollars made by act of May 7, 1871, to pay for the necessary lands along the towing path between Defiance, in Defiance county, and Independence dam, on the Maumee river, as recommended to be condemned by the joint select committee of the general assembly of the state of Ohio, appointed March 12th, 1870, to investigate certain claims for damages on the Miami and Erie canal, and to repair and replace the wear and tear of the present towing path from the action of the waters of the Maumee river, as per their report dated April 6, 1871.

For the completion of the feeder from the Miami and Erie

canal, commencing at lock F, to the Mercer county reservoir, the sum of eight thousand dollars, to be expended under the direction of the board of public works.

Completion of feeder.

#### SALARIES OF STATE OFFICERS AND CLERKS.

For the salaries of the governor, lieutenant-governor, auditor of state, treasurer of state, secretary of state, comptroller of the treasury, state commissioner of common schools, attorney general, clerk of the supreme court, private secretary of the governor, commissioner of railroads and telegraphs, state librarian, law librarian, supervisor of public printing and binding, and superintendent of insurance, twenty two thousand dollars.

State officers salaries.

For the salaries of the judges of the supreme court, the court of common pleas, and the superior courts, one hundred and nine thousand dollars.

Judges.

For salaries of clerks in office of the auditor of state, nine thousand two hundred and seventy dollars.

Auditor's clerks.

For salaries of clerks in the office of the treasurer of state, four thousand four hundred dollars.

Treasurer's clerks.

For salaries of the clerks in the office of the secretary of state, including the necessary services required in carrying out the provisions of the act in relation to the bureau of statistics, passed April 17, 1869, five thousand nine hundred and fifty dollars.

Secretary's clerks.

For salaries of clerks in the office of the comptroller of the treasury, twenty-eight hundred dollars.

Comptroller's clerks.

For the salary of the clerks in the office of state commissioner of common schools, two thousand two hundred and forty dollars.

School commissioner's clerks.

For the salary of the clerk in the office of the commissioner of railroads and telegraphs, eleven hundred dollars.

Railroad commissioner's.

For the salary of executive clerk, twelve hundred dollars.

Governor's.

For clerk hire in the office of the attorney general, five hundred dollars.

Attorney general's.

For salary of clerk in the state library, seven hundred dollars.

Librarian's.

For salary of reporter of supreme court, seven hundred and fifty dollars.

Reporter.

For the salary of the adjutant general, one thousand five hundred dollars.

Adjutant general.

For salary of gas commissioner, three thousand dollars.

Gas commissioner.  
Adjutant general's clerks.

For salaries of clerks in adjutant general's office, twenty-one hundred and eighty dollars; Provided, the adjutant general shall keep a clerk for the special purpose of perfecting and securing payment of the uncollected military claims against the general government; and provided further, that no officer shall employ a greater clerical force than can be paid from the appropriations herein made to their respective offices for that purpose; and no clerk shall receive compensation to be paid directly or indirectly out of the state treasury for services in more than one clerkship, nor shall any clerk receive a greater compensation in the aggregate for all services rendered, than two thousand dollars, except

No excess of clerical hire.

that the clerk for the commissioners of the sinking fund may serve and receive compensation as clerk to the attorney general. The auditor of state is hereby specially directed to see that the foregoing provisions are observed and carried into effect.

#### GEOLOGICAL SURVEY.

**Salaries.** For salaries of geological corps and chemist from June 1st, 1873, to January 1st, 1874, when the geological corps is hereby required to complete the survey, thirty-five hundred dollars; and no part of the salaries of the members of the geological corps shall be paid until the proof of each part of the several members of said corps shall be in the hands of the printer, and ready for his use, to go forward with the work.

For salaries of assistant geologists from June 1st, 1873, to January 1st, 1874, twenty four hundred dollars.

**Expenses** For traveling expenses of geological corps, eleven hundred and fifty dollars.

For paleontological work, one thousand dollars.

For chemicals, three hundred dollars.

For zoological and botanical catalogues, one thousand dollars.

For printing sixteen thousand additional maps of group sections for geological reports, six thousand dollars.

**Expenses of  
investigating  
committees, &c.**

For necessary expenses incurred by State officers authorized by any joint resolution or by law, to make investigations and send for persons and papers, and to pay witnesses, (\$200) two hundred dollars; and such officers or any of them named in any such resolution or law, shall have the same authority to send for, compel the attendance of, and examine under oath witnesses, and to compel the production of books and papers, as is conferred by law upon committees of the general assembly authorized to send for persons and papers, or upon the chairmen thereof.

#### STATE PRINTING, BINDING AND STATIONERY.

**Printing.** For the state printing, forty-two thousand five hundred dollars.

**Binding.** For the state binding, twenty-nine thousand dollars, the vouchers for which shall be approved by the supervisor of public printing and binding.

**Stationery.** For stationery and blank books, including printing paper and articles necessary for the use of the general assembly and public officers in the state house, forty-four thousand dollars.

#### STATE HOUSE AND GROUNDS.

**Labor.** For the ordinary purchases and labor in taking care of the state house and grounds and preparing the halls for the general assembly and constitutional convention, six thousand six hundred dollars.



For purchase of fuel for the state house, four thousand five hundred dollars. Fuel.

For gas consumed in the state house, three thousand dollars. Gas.

For necessary repairs of heating apparatus of state house, two hundred dollars. Repairs.

For grading, graveling, curbing and guttering the south side of Broad street, in Columbus, in front of the eleven acre lot belonging to the state, at not more than one dollar and fifty cents per lineal foot, and not more than may be charged to other property holders for these purposes, on the same part of said street, to be paid out on the certificate of the comptroller of the treasury, when the work is done to his satisfaction, thirteen hundred and sixty dollars. There is hereby appropriated to meet deficiency in appropriation for the construction of the new fence around the state house yard, the sum of forty-five hundred dollars. Grading, &c.

#### MISCELLANEOUS.

For additional file cases in state auditor's office, six hundred and fifty dollars. File cases.

For expense of procuring list of selections of school lands from the general land office, eight hundred dollars. Certain expenses.

To pay the claim of Mrs. S. D. Gibson, authorized by an act passed April 17th, 1872, (O. L., page 278), seven hundred and twenty dollars. Mrs. S. D. Gibson.

To pay Cornelius McCurry five hundred dollars, being one-half compensation for finishing levee on public works near the Middletown dam, in Butler county, the other half having been paid by the lessees of the public works. Cornelius McCurry.

The comptroller of the treasury is hereby authorized to use whatever may be necessary of the unexpended balance of the appropriation for painting the main halls leading from the rotunda of the state house, to paint and repair the flag and relic rooms in the state house. Repairs, &c., of flag rooms.

The governor is hereby authorized and directed to appoint a commissioner, at a reasonable compensation to be by him fixed, whose duty it shall be to proceed to Washington and urge upon the proper officers of the government, or congress, if necessary, the payment of all the just claims of the people of Ohio, growing out of the Morgan raid into the state during the year 1863. That the said commissioner shall be furnished with all the evidence in the possession of the State, and shall obtain such other evidence as he can procure relative to the validity of said claims. That it shall be his particular duty to procure, if possible, such a modification of the rules regulating the payment of war claims, as to authorize the payment of all claims, verified by credible evidence for property taken by the union forces, when, for any reason, there were no vouchers given by the officers of the army for the same. And the senators and representatives in congress from Ohio, are requested to give such commissioner all the aid in their power to secure a fair and equitable adjustment of said

Commissioner of Morgan raid claims.

claims. For the payment of the compensation and expenses of said commissioner, there is hereby appropriated the sum of three thousand dollars, to be paid on the order of the governor, and allowance of the auditor of state.

**State costs.** For the payment of costs in cases dismissed in the courts where the state is a party and costs are assessed against the state, one hundred dollars.

**L.J. Critchfield.** To pay L. J. Critchfield in full for his services as assistant counsel of the attorney general in defending the case brought against the state by William W. Riley, under joint resolution of April 29th, 1871, (68 O. L., 222), two hundred and fifty dollars.

**W. H. West.** To pay William H. West in full for services as assistant counsel of the attorney general in prosecuting the proceedings in the nature of *quo warranto*, in pursuance of his retainer under the joint resolution of February 18, 1871, (68 O. L., 206), twenty-five hundred dollars.

#### CONSTITUTIONAL CONVENTION.

**Per diem and mileage.** For the mileage and per diem of members and per diem of officers and messengers of the constitutional convention, to be paid on the certificate of the presiding officer of the convention, sixty five thousand dollars.

**Expenses.** For contingent expenses of constitutional convention, five hundred dollars, to be allowed and paid on the presentation of proper vouchers certified to be correct by the presiding officer of the convention.

**Printing.** For the printing of the constitutional convention, to be contracted for by the convention with the lowest and most responsible bidder or bidders, six thousand dollars. All bills for printing herein provided for, shall be audited and paid as similar bills for state printing are audited and paid.

**Binding.** The necessary binding for the convention shall be executed under the direction of the supervisor of the public printing and binding, at the state bindery.

**Transfer of balance.** The unexpended balances of the following appropriations are hereby transferred to the general revenue fund, to-wit: Appropriation for constructing fire-places in senate chamber, appropriation for expense of commission to examine mines, appropriation for expense of commission to examine canals, appropriation for purchase of platform scales for state house.

**Asylum funds.** .SEC. 2. That there is hereby appropriated from any moneys in the treasury, belonging to the asylum fund and not otherwise appropriated, the following sums, to-wit:

#### CENTRAL OHIO LUNATIC ASYLUM.

**New building.** For continuing new building, one hundred thousand dollars.

#### NORTHERN OHIO LUNATIC ASYLUM.

**es.** For salaries of superintendent, assistant physician, matron and steward, twenty-two hundred dollars.

For provisions and necessary current expenses, twenty five thousand five hundred and fifty-four and 45/100 dollars. Expenses.

To pay expenses incurred since the 15th of November, 1872, in removing debris, the protection of the property of the state, and other extraordinary expenses, growing out of the burning of the asylum, as reported to this general assembly, three thousand nine hundred and forty-five dollars and fifty-five hundredths dollars.

For ordinary repairs, three thousand dollars. Repairs and bridge.

For building bridge, six hundred dollars.

For rebuilding administration building and four sections of wards, and for the erection of gas-works, in accordance with the provisions of law, two hundred and seventy-five thousand dollars; and the trustees are hereby authorized out of this appropriation to put in heating apparatus, so far as is necessary for the current year. Rebuilding.

For replenishing library, four hundred dollars. Library.

#### SOUTHERN OHIO LUNATIC ASYLUM.

For salaries of superintendent, assistant physicians, matron and steward, twenty-nine hundred dollars. Salaries.

For provisions and necessary current expenses, seventy-two thousand dollars. Expenses.

For ordinary repairs, nine thousand dollars. Repairs, etc.

For further fire protection, six thousand and sixty-six dollars.

For replenishing library, four hundred dollars.

#### ATHENS LUNATIC ASYLUM.

For finishing building, one hundred thousand dollars. Building.

For salaries of superintendent, assistant physicians, matron and steward, two thousand and two hundred dollars. Salaries.

For stocking farm and institution, six thousand dollars. Expenses, etc.

For provisions and necessary current expenses, thirty-nine thousand dollars.

For providing library and pictures, eight hundred dollars.

For providing water supply for said institution, ten thousand dollars.

#### LONGVIEW LUNATIC ASYLUM.

For the Longview Asylum, a sum to be computed and ascertained by the auditor of state, which sum shall bear the same proportion to the appropriations for the other lunatic asylums of the state as the population of Hamilton county bears to the population of the state exclusive of Hamilton county, as ascertained by the federal census of 1870. General appropriation.

For the support of such patients as are received into said asylum in accordance with joint resolution of the general assembly, adopted April 18, 1870, subject to conditions of agreement made with the state, twenty-five thousand dollars. State patients.

For care of colored insane, in accordance with terms of agreement with the state, four thousand dollars. Colored insane.

## LUCAS COUNTY INSANE ASYLUM.

**State patients.** For support of patients in the Lucas county insane asylum, including any deficiency preceding February 15th, 1873, under the contract made in pursuance to joint resolution passed April 27th, 1872, nineteen thousand dollars.

## DEAF AND DUMB ASYLUM.

**Salaries.** For salaries of the superintendent, steward, matrons, physician and teachers, thirteen thousand six hundred and fifty dollars.

**Expenses and repairs.** For provisions and necessary current expenses, forty thousand five hundred dollars.

For ordinary repairs, three thousand dollars.

**Printing.** For printing department of said institution, eight hundred and seventy-five dollars.

**Deficiency.** To meet deficiency in appropriations for steam power in state bindery, three hundred and forty-two dollars.

**Iron fence.** For removing and resetting around the deaf and dumb asylum grounds iron fence, in pursuance of joint resolution of April 29th, 1872 (vol. 69, O. L., 223), twenty-five hundred dollars.

## BLIND ASYLUM.

**Salaries.** For salaries of the superintendent, matron, steward, physician and teachers, five thousand nine hundred and fifteen dollars.

**Expenses.** For provisions and necessary current expenses, ten thousand five hundred dollars.

**New building, repairs, etc.** For completing new building, thirty thousand dollars.

For ordinary repairs, one thousand dollars.

For six iron tanks and iron supports for the same, five thousand and eight hundred dollars.

For making iron and stone passage-ways to the chapel, four hundred and fifty dollars.

**Certain improvements.** In addition to the above new works the trustees of the institution for the blind are hereby authorized to pay for additions and improvements introduced into the new building to complete the same, and to contract and pay for the protection of the same, and to improve the grounds (in part), in addition to the amounts heretofore authorized, the sum of fifteen thousand dollars.

## ASYLUM FOR IMBECILE YOUTH.

**Salaries.** For salaries of superintendent, matron and teachers, seven thousand six hundred and fifty dollars.

**Expenses, repairs, etc.** For provisions and necessary current expenses, forty-three thousand dollars.

For ordinary repairs, four thousand dollars.

For fire hose and fittings, sixteen hundred dollars.

For addition to main building, thirty thousand dollars.

## OHIO SOLDIERS' AND SAILORS' ORPHANS' HOME.

For salaries of the superintendent, matrons, teachers, superintendent of schools, clerk and cottage managers, including hospital managers, housekeeper and physician, eleven thousand dollars.

Salaries.

For provisions and necessary current expenses, thirty-two thousand dollars. For replenishing library, two hundred dollars.

Expenses, library, etc.

For building and furnishing laundry, nine thousand dollars.

To meet deficiency in appropriation for domestic building and eleven cottages, nineteen thousand nine hundred and thirty-nine dollars and nine cents.

Deficiencies.

To meet deficiency in appropriation for hospital, seven hundred and fifteen dollars and thirty-five cents.

To meet deficiency in appropriation for water supply, five thousand three hundred seventy-eight dollars and seventy-eight cents.

For heating six new cottages, three thousand dollars.

Heating new buildings, repairs, etc.

For fencing, grading, making and repairing roads, two thousand dollars.

For two new boilers and addition to boiler-house, twenty-five hundred dollars.

For wrapping for steam-pipes, eight hundred dollars.

For ordinary repairs, three thousand dollars.

The board of managers of said home are authorized to purchase the woodland not exceeding twenty-three acres in extent, lying east of the home farm, at a cost not exceeding one hundred and fifty dollars per acre, the purchase price to be paid when said land shall be conveyed in fee simple to the state of Ohio free from all incumbrances, by deed of general warranty, and there is hereby appropriated for such purpose the sum of three thousand four hundred and fifty dollars.

Purchase of woodland.

For the support of sailors' and soldiers' orphans outside of home at Xenia, as provided by section 10 of the act to establish Ohio soldiers' and sailors' orphans' home, passed April 14th, 1870, seven thousand dollars.

Outside support.

## INDUSTRIAL SCHOOL FOR GIRLS.

For provisions and necessary current expenses, twenty thousand dollars.

Expenses, salaries, etc.

For salaries of officers and teachers, three thousand dollars.

For repairs, ten thousand [hundred] dollars.

For the erection of two new buildings, twenty-four thousand dollars. The buildings shall be plain in their architectural construction.

New buildings.

## TRUSTEES OF BENEVOLENT INSTITUTIONS.

For the necessary expenses of the trustees of the various benevolent institutions, one thousand dollars.

Expenses of trustees.

## OHIO PENITENTIARY.

Expenses, salaries, etc.

For provisions and current expenses, fifty-five thousand dollars.

For salaries of the warden and other officers and guards, and the per diem and expenses of directors, fifty thousand and five hundred dollars.

For ordinary repairs, five thousand dollars.

For rewards to convicts, four thousand dollars.

For replenishing library, eight hundred dollars.

Gas works.

For building gas works and making connections with other state institutions as provided for by law, twenty-five thousand dollars.

Transportation, etc.

For cost of prosecution and transportation of convicts to the Ohio Penitentiary, forty-five thousand dollars.

The unexpended balances of former appropriations for overwork of convicts at the Ohio Penitentiary are hereby reappropriated.

## REFORM FARM SCHOOL FOR BOYS.

Salaries.

For salaries of acting commissioner, matron and other officers, teachers and elder brothers, seven thousand dollars.

Expenses, repairs, etc.

For provisions and current expenses, twenty five thousand dollars.

For ordinary repairs, twelve hundred dollars.

For water-tower tank and connections, in addition to former appropriation, four thousand dollars.

For additional gas holder, and to extend and complete gas works, fifteen hundred dollars.

Fairfield county.

To refund to Fairfield county costs and expenses of inquest of lunacy on Russell Walls, an inmate of said school, and sending him to Southern Lunatic Asylum, and returning him when cured to the school, fifty-eight dollars and eighty-one cents. The commissioners may contract and complete water-tower and connections and gas works without further advertising.

Matrons.

For replenishing library, two hundred dollars. The trustees and other persons having control of the state benevolent, penal and reformatory institutions, may allow the principal matrons of the respective institutions a salary not exceeding five hundred dollars per annum.

Transfer of unexpended balances.

And the unexpended balances of the following appropriations are hereby transferred to the asylum fund, to wit: Appropriations for salaries of officers of the Central Ohio Lunatic Asylum. Appropriation for new roofing and fitting up the fourth story of main building of the Northern Ohio Lunatic Asylum.

## SINKING FUND.

Agricultural College.

SEC. 3. There is hereby appropriated from any money in the treasury, and that may come into the treasury from the income of the Ohio Agricultural and Mechanical College, for the expenses of the trustees of said college, two thousand dollars.

## NATIONAL ROAD.

SEC. 4. There is hereby appropriated for superintendence and repairs on the National road, for one year from the fifteenth day of February, 1873, whatever funds may be collected and paid into the state treasury to the credit of the National road fund, during the period of one year, together with the unexpended collections of the previous year, if any there be, applicable to the same purpose.

Superintendence, repairs, etc.

## COMMON SCHOOLS.

SEC. 5. There is hereby appropriated from any moneys raised or accruing to the state treasury for the support of common schools, one million five hundred thousand dollars, or so much as may come into the state treasury for this purpose, to be distributed and paid in the manner provided by law.

School fund.

## TRANSFERS.

SEC. 6. If the emergencies shall arise for a greater expenditure of money than the resources of the general revenue or asylum fund will warrant, the auditor of state is hereby authorized to temporarily transfer to the general revenue or asylum fund from the unexpended balances of other funds, such amounts as may be necessary, said amounts to be retransferred, when the receipts into these funds will permit, and in no case to extend beyond the time when the benevolent and reformatory institutions now in process of construction, or authorized to be constructed, shall be completed.

Authority to transfer funds in certain cases.

SEC. 7. It shall be the duty of the boards of trustees and other persons having control of the different public state institutions, to embrace in their several annual reports to the governor a statement of the disbursements of the appropriations made for building and repairs, and no money herein or heretofore appropriated shall be expended for any other purpose than that specifically named in the several acts making the same.

Reports of disbursements.

SEC. 8. No part of any appropriation herein made shall be used for the payment of debts or deficiencies contracted before the 15th day of February, 1873, unless herein provided.

No deficiencies to be paid.

SEC. 9. This act shall take effect on its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed May 5, 1873.

## AN ACT

To amend sections three, four, eleven and twelve of "An act to provide for the election of Electors of President and Vice President of the United States," passed February 15th, 1820; and, also, section five of the same act as amended March 30th, 1864. (S. & C., page 530; S. & S., page 230.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That sections three, four, five, eleven and twelve of the above mentioned act be amended so as to read as follows:

Duties of judges of election as to poll-books.

Section 3. That it shall be the duty of the judges of election in each township and voting precinct, after canvassing the votes in the manner prescribed by law, forthwith to put under cover one of the poll-books, seal the same, and direct it to the clerk of the court of common pleas of the county where the return is to be made, and the same shall be conveyed by one of the judges of election (to be determined by lot, if they cannot otherwise agree) to the clerk of the court of common pleas, at his office at the county seat, within three days from the day of election; and the other poll book shall be deposited with the township clerk or clerk of the election precinct forthwith, there to remain for the use of any person who may choose to inspect the same.

Duty of clerks of courts on receiving poll-books.

Section 4. That the clerks of the courts of common pleas, upon receiving all the poll-books of the several townships and election precincts, as aforesaid, shall take to his assistance two justices of the peace of the proper county, and shall proceed to open the several returns which have been made to his office, and shall make an abstract thereof on one sheet, showing the number of votes given for each elector for president and vice-president of the United States, which shall be certified and signed by the said justices and clerks, and be deposited in the clerk's office of the proper county, and the said clerks of the court of common pleas of the proper county shall, within six days after the election, make a certified copy of the aforesaid abstract of votes, and transmit the same, properly inclosed, by mail, directed to the secretary of state, at the seat of government of the state of Ohio.

Transmission of abstract of votes to secretary of state.

Section 5. That as soon as the complete returns shall be received from all the clerks of the several counties of the state, as provided in the foregoing section, the secretary of state shall, in the presence of the governor, auditor of state, and such other state officers as may choose to attend, proceed to open all the abstracts of the poll-books of the election for electors of president and vice-president of the United States, as returned to his office. The secretary shall cause the said abstracts of the poll-books, as they are opened, to be read aloud, and shall make out a fair abstract of the names of the persons voted for, and the number of votes given to each, and the governor shall forthwith make out, for the persons hav-

Secretary of state to open all the abstracts in presence of governor, &c.



ing the greatest number of votes, certificates of their having been duly elected electors of president and vice-president of the United States, and shall transmit by mail such certificate to each person so elected, and shall cause the election of electors to be published in the newspapers printed at the seat of government; but if the election of one or more of the electors for president and vice-president which the state is entitled to elect at such election shall be prevented by reason of any two or more persons receiving an equal number of votes, then the election of those having such equal number of votes shall be determined by lot, to be drawn by the secretary of state, in the presence of the governor, auditor, and other state officers aforesaid. The governor shall transmit by mail the proper certificate to the person or persons determined by lot as aforesaid to be elected, notifying him or them of his or their election, and shall cause publication to be made as aforesaid, and the said abstract of the poll-books shall be kept in the office of the secretary of state, subject to the inspection of any person who may choose to examine the same.

Publication.

Tie votes to be determined by lot.

Section 11. That the sheriffs and clerks of the several counties of the state, for the services required of them by this act, shall be paid the like compensation, out of their respective county treasuries, as they are entitled to receive for similar services under the act entitled an act to regulate general state elections.

Fees of sheriffs and clerks for services under this act.

Section 12. That each and every elector who shall attend as an elector at the seat of government, as aforesaid, shall be entitled to receive three dollars for each and every day's attendance, and mileage at the rate of ten cents per mile, for the estimated distance by the most usual route, from his place of residence to the seat of government, which sum shall be allowed by the auditor on the certificate of the governor, and paid by the treasurer out of any money in the treasury not otherwise appropriated.

Compensation of electors.

SEC. 2. That sections three, four, five, eleven and twelve of the act to provide for the election of electors of president and vice-president of the United States, passed February 15, 1820, and section five of the same act as amended March 30, 1864, be and the same are hereby repealed.

SEC. 3. This act shall take effect from and after its passage.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed May 3, 1873.

## AN ACT

To amend section three hundred and ninety-two of an act entitled "An act to provide for the organization and government of municipal corporations," passed May 1st, 1869.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section three hundred and ninety-two of an act "to provide for the organization and government of municipal corporations," be so amended as to read as follows :

Powers of  
councils of  
cities and  
villages in  
relation to  
cemeteries.

Section 392. The council of any city or incorporated village owning a public burial ground or cemetery, whether within or without the corporation, shall have full power to pass all ordinances necessary to carry into effect the provisions herein contained, and to regulate such public burial grounds and cemeteries, the improvement of the same and the burial of the dead therein, to define the tenure and conditions on which lots therein shall be held ; to protect such burial grounds and cemeteries and all fixtures thereon, and to provide for the punishment of all violations of such ordinances. The council may sell any portion of such cemetery grounds not already used for the burial of the dead, which are unsuitable for burial purposes, and purchase with the proceeds thereof other suitable lands lying contiguous thereto : Provided, that no such sale shall be made until the council shall have contracted for an equal or greater quantity of land suitable for burial purposes.

SEC. 2. That said original section three hundred and ninety-two be and the same is hereby repealed.

SEC. 3. That this act shall take effect from its passage.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed May 3, 1873.

*Sup's & Attn Act*

72:141

## AN ACT

To authorize the appointment of Commissioners of Fisheries for the State of Ohio, and defining their duties.

Commissioners to be appointed by governor.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the governor shall appoint, immediately after the passage of this act, three commissioners of fisheries, who shall serve without compensation.

Duty of commissioners.

SEC. 2. It shall be the duty of the commissioners to examine the various rivers, lakes, ponds and streams of the state of Ohio, and the waters adjoining the same, with a view of ascertaining whether they can be rendered more productive of fish, and what measures are desirable to effect this object, either in restoring the production of fish in them, or in protecting or propagating the fish that at present fre-

quent them, or otherwise; said commissioners shall inquire into the matter of the artificial propagation of fish in the various waters throughout the state; and such commissioners shall report the result of their labors, and any recommendations they may have to offer, at the next meeting of the General Assembly of this state.

SEC. 3. A sum of one thousand dollars is hereby appropriated for the necessary expenses of said commissioners in carrying this act into effect, which the state treasurer shall pay to them, on the warrant of the auditor from time to time, as their vouchers for such expenses shall be exhibited and approved: Provided, no greater expenditure shall be made or liability incurred against the state than the amount herein appropriated.

Appropriation for expenses.

SEC. 4. This act to take effect and be in force from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed May 3, 1873.

## AN ACT

Supplementary to "An act providing for recording, printing and distributing the Journals of the General Assembly, and the Laws and Public Documents. (S. & C., 825.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That each judge and each clerk of any United States District Court held in any district within the state of Ohio, each United States District Attorney, each United States Marshal of any district within the state of Ohio, and each United States Commissioner in this state, shall be entitled to receive one copy of the laws passed at each session of the General Assembly for their use while filling such offices, but every such officer who may, by virtue of his office, receive a copy of the laws for his use while filling such office, shall deliver the same to his successor in office for his use while filling such office, and refusing so to do upon demand therefor made, may be proceeded against in the manner and to the extent provided for in section thirteen of the act to which this is supplementary.

Officers entitled to copy of laws.

SEC. 2. This act shall take effect upon its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed May 3, 1873.

## AN ACT

To make more efficient the reports of Railway and Telegraph Companies.

Correction of incomplete or defective returns.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That whenever the returns of any corporation, required to report to the commissioner of railroads and telegraphs, are incomplete, defective, or probably erroneous, the commissioner shall notify such corporation thereof, and require it to amend said return within fifteen days. Each corporation shall make its returns strictly according to the forms provided. If the corporation find it impracticable to return all the items in detail as required, it shall state the reason why such details cannot be given; but no corporation shall be allowed to plead in excuse for not giving such details that it does not keep its accounts in such a manner as to enable it to do so: Provided, that if the form for said returns and report furnished by the commissioner makes necessary any change or alteration in the present method or form of keeping their accounts, he shall give to said corporations at least thirty days notice thereof, prior to the commencement of the year for which the said changes and additions may be necessary, in order to make the full returns required.

Power of commissioner to examine officers, etc., of railroads.

SEC. 2. The commissioner shall have power, personally, or by agent under his authority, to examine any railroad officer, agent or employe, under oath, relative to his stock or pecuniary interest, direct or indirect, in any freight, express, telegraph, sleeping car, construction rolling stock, or other company doing business upon or in connection with the road of which he is such employe; also, to examine into the cause of each accident resulting in loss of life to person or persons; and it is hereby made the duty of the superintendent of each railway in the state to notify said commissioner of such accident, by telegraph, immediately upon its occurrence.

Duty of railway corporations to furnish information

SEC. 3. The several railway corporations operating railways in the state shall, at all times, on demand, furnish said commissioner any information required by him concerning the condition, management and operations of the railways under their direction and control, respectively, and particularly with copies of all leases, contracts and agreements for transportation with express companies or otherwise to which they are parties, and also with the rates for transporting freight and passengers upon their railways, and upon those with which their roads, respectively, have connection in business. A refusal or neglect by any company to comply with the provisions of this act, shall subject it to the same penalties as attach for failure to make annual report to said commissioner. The commissioner, in the discharge of his duties under the provisions of this act, shall have power to subpoena witnesses and administer oaths; and pay the necessary expenses incurred, by draft from the contingent fund of his office. And any railroad officer, agent or employe who shall refuse to answer, under oath, any question or questions to be asked by the commissioner or his agent by the terms of sec-

Penalty for neglect or refusal.

tion two of this act, shall, upon conviction thereof, for the first offense be fined in any sum not less than fifty nor more than five hundred dollars. For each succeeding offense he shall be liable to such fine, and in addition thereto, shall be imprisoned in the county jail not less than five nor more than thirty days; and each refusal to answer the same question or questions shall constitute a separate and distinct offense. The property of the railroad company of which the person so convicted is an officer, agent or employe, shall be liable to be taken in execution to satisfy the fines and costs in such cases. All prosecutions made under the provisions of this act shall be by indictment in the court of common pleas in the county in which such offense is committed; and it is hereby made the duty of the prosecuting attorney of such county, upon complaint of the commissioner, as part of his official duties, to attend to the prosecution of all offenses committed under the provisions of this act.

Property  
liable for  
fines, etc.

Duty of  
prosecuting  
attorney.

SEC. 4. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed May 5, 1873.

## AN ACT

To authorize the Commissioners of certain counties and the Councils of certain cities to establish and support Homes for friendless Women and Girls.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of any county having by the federal census of A. D. 1870, a population exceeding forty-one thousand, and not exceeding forty six thousand, shall have power to establish within such county a Home and school for the instruction, employment, and reformation of exposed, helpless, evil-disposed or vicious women and girls, to be called — County Home for the Friendless—the word county to be preceded by the name of such county. The government of such Home shall be vested in a board of trustees, consisting of seven (not less than three of whom shall be females), to be appointed by the judge of the court of common pleas and approved by the commissioners of the proper county. The term of office of said trustees shall be for three years, and until their successors shall be appointed and qualified: Provided, that of the trustees first appointed two shall be appointed for one year, two for two years, and three for three years. Any vacancy occurring by resignation or otherwise shall be filled by the judge of the court of common pleas and approved by said county commissioners, and each person so appointed shall serve for the unexpired term to which he shall be appointed.

Homes may  
be establish-  
ed in certain  
counties.

The trustees.

Said trustees shall receive no compensation for their services, but shall be paid their necessary expenses, after approval of such accounts by the county commissioners, by the the county treasurer, on the order of the county auditor.

Oath of trustees, and their organization.

SEC. 2. Before entering upon their duties, said trustees shall take an oath faithfully and honestly to discharge their duties as such. They shall organize by electing a president and secretary, who shall be of their number, and a treasurer, who may or may not be of their number. The treasurer, before entering upon the discharge of his duties, shall give bond or undertaking, with surety, to the acceptance and approval of the commissioners of the proper county, in the sum of ten thousand dollars, conditioned for discharge of the duties of his office, and that he will properly account for all moneys that shall come to his hands by virtue of his office.

Expenditure for land and buildings.

SEC. 3. The county commissioners shall have power to expend any sum or sums, not exceeding in the aggregate ten thousand dollars, in the purchase of land for the use of such Home; and a further sum or sums, not exceeding in the aggregate fifteen thousand dollars, in addition to the sum expended for land, may be expended in erection and furnishing necessary buildings.

Duties of the trustees.

SEC. 4. When the buildings are ready for occupancy, the trustees shall give notice of the fact, and shall take charge of the general interests of the institution, shall see that its affairs are conducted in accordance with the requirements of the legislature, and of such by-laws as the board may from time to time adopt (subject to the approval of the county commissioners), for the orderly and economical management of the concern. They shall see that strict discipline is maintained within, shall provide employment for the inmates, bind them out, discharge or remove them, as is hereinafter provided. They shall appoint a superintendent, who shall hold the office for three years, unless sooner removed by them for cause, and such other officers to be nominated by the superintendent, as in their judgment the wants of the institution may require, and prescribe their duties, remove them at pleasure, appoint others in their stead, determine their salaries respectively, and exercise general supervision over the institution. A majority of said board shall constitute a quorum.

Appointment of superintendent, etc.

Payment of salaries.

SEC. 5. All salaries shall be paid quarterly on the certificate of the president and secretary of said board, by an order drawn by the auditor of said county on the county treasury, and all money for building purposes, or current expenses, shall be drawn in like manner; but not more than two thousand dollars shall be drawn at one time from the county treasury, nor shall the total balance standing against the treasurer of the board at any time exceed five thousand dollars. Said board shall report semi-annually, on or before the first days of June and December, to the county commissioners, and also at such other time or times as the commissioners shall at any time require; such report shall contain full and detailed accounts of all payments made and moneys

Semi-annual report, etc.

received, and the true condition of the institution. No trustee, superintendent, officer or employe of said institution, or county commissioner, shall be interested in any sale, trade or business carried on in said institution, and for any violation of this provision, such officer or employe shall be subject to a fine of not less than one hundred dollars, nor more than one thousand dollars.

SEC. 6. The said board of trustees shall receive, hold or invest all legacies, devises, bequests or donations, made to or for the benefit of such Home, of every description, in behalf of the county for the purposes of this act.

Legacies, donations, etc.

SEC. 7. It shall be the duty of the board to direct the general management of the Home as regards its productions, but no provision of this act shall be so construed as to authorize the letting of the labor of any of the inmates of the institution to any person or persons for manufacturing, but said labor shall be used by the superintendent exclusively in the interests of the institution. And the superintendent shall cause the accounts of the institution to be so kept that the profits, over and above maintaining the expense of the Home, can be ascertained, and when thus ascertained, the board of trustees shall fund such annual profits of the institution for distribution among the girls, pro rata, when either of them may be honorably discharged from the institution. They shall also see that such productions as are not needed by the institution, are sold to the best advantage. The value of all productions, whether used or sold, shall be duly accounted for in the annual report.

Further duties of the board of trustees.

Of superintendent.

SEC. 8. Whenever any girl above the age of seven, and under the age of sixteen years, shall be brought by any constable or police officer, or other inhabitant of the county, before the probate court of said county, upon the allegation or complaint that said girl has committed any offense known to the laws of this state, punishable by fine or by fine and imprisonment other than imprisonment in the penitentiary, or that she is leading an idle, vagrant or vicious life, or has been found without a home, in a state of want, suffering, abandonment, or beggary, it shall be the duty of said probate court to forthwith issue an order in writing, addressed to the father, mother, or guardian or next friend, as the case may be, of such girl, if such father, mother, guardian, or next friend be resident of or within said county, requiring such father, mother, guardian, or next friend, as the case may be, to appear before said court, at a time and place therein to be named, to show cause, if any there be, why said girl should not be committed to the Home established in such county under this act, and upon the appearance of said party or failure to appear at the time and place named in such order, said court shall proceed to hear such party, and such testimony as shall be offered; and should it appear to the satisfaction of said court, that said girl is a suitable subject for the said Home, said court may commit said girl to the same, and for that purpose the said court shall issue its order to the sheriff of the county, or to some suitable person to be

Procedure when a girl is brought before probate court.

Duty of probate court.

Girls entitled  
to trial by  
jury.

named in such order, commanding him to take charge of said girl, and to deliver her without delay to the superintendent of said Home; and fees therefor shall be the same as for similar services under the laws now in force, and shall be paid by the county in the same manner: Provided, that nothing in this act shall be so construed as to prevent any girl arrested for crime, from demanding a trial by jury; and when any such demand shall be made by or on behalf of such girl, the probate court is hereby authorized, after an examination of the case, in the discretion of the court, to discharge such girl, or require her to enter into recognizance for her appearance before the court of common pleas, as justices of the peace may recognize in such cases; and in default of recognizance, such probate court may commit to the jail as justices might in such case commit; and the probate judge shall forward to the clerk of the court of common pleas of the proper county, a transcript of the proceedings in the case before his court; and said probate court may recognize witnesses as justices of the peace could in such case.

Discipline  
and govern-  
ment of girls.

SEC. 9. Any girl duly committed to said Home shall there be kept, disciplined, instructed, employed and governed, under the direction of the said board of trustees, until she be either reformed and discharged, or shall be bound out by said trustees, according to their by-laws, or shall have attained the age of eighteen years; provided, that the trustees shall have the right to discharge and return to the parents, guardian or protector any girl who, in their judgment, ought to be removed for any cause from said Home, and in such case the trustees shall enter upon their records the reasons for her discharge, a copy of which record, signed by their secretary, shall be forthwith transmitted to the probate judge by whom the girl was committed.

Procedure in  
case of girls  
brought be-  
fore a criminal  
court

SEC. 10. Whenever any girl, between the ages of seven and sixteen years, shall be brought before any justice of the peace or police court, or court of criminal jurisdiction, charged with any offense punishable by fine or imprisonment, other than imprisonment in the penitentiary, and if found guilty, would be a proper subject for commitment to said Home, an order to that effect shall be entered on the records of the proceedings of said justice or court; and thereupon it shall be the duty of said justice or court, by warrant in due form of law, or order, to cause such girl to be forthwith taken before the probate judge of the proper county, and transmit to said judge the complaint and indictment or warrant, by virtue of which she shall have been arrested; and thereupon the probate judge shall proceed in the same manner as if she had been brought before him upon original complaint as is provided in this act.

Girls may be  
bound out as  
apprentices,  
&c.

SEC. 11. The trustees may bind out as an apprentice, or servant, any girl committed to their charge, for a term not longer than until she arrives at the age of eighteen years; and the person to whom the girl is bound shall by the terms of the indenture be required to report to the trustees as often as once in six months her conduct and behavior, and whether she is still living under his care, and if not, where she is.



SEC. 12. A person receiving an apprentice under the provisions of the last section, shall not assign or transfer the indenture of apprenticeship, nor let out her services for any period without the consent of the trustees in writing. If the person, for any cause, desires to be relieved of the contract, the trustees, upon application, may, in their discretion, cancel the indenture, and resume the charge and management of the girl, and shall have the same power and authority in regard to her as before the indenture was made.

Indenture of apprenticeship not transferable.

SEC. 13. If the person is guilty of cruelty or misusage towards the girl so bound to service, or of any of the terms of the indenture, the girl or trustees may make complaint to the probate judge of the proper county, who shall summon the party before him and examine into the complaint, and if it appear to be well founded, he shall by certificate, under his hand, discharge the girl from all obligations of future service and restore her to the Home, to be managed as before her indenture.

Apprentices entitled to discharge for bad treatment.

SEC. 14. The trustees shall be the guardian of every girl so bound or held to service, and shall take care that the terms of the contract are faithfully fulfilled and that she is properly treated, and shall cause any grievance to be redressed.

Trustees to be guardian of apprentices.

SEC. 15. The superintendent, with such subordinate officers as the trustees may appoint, shall have the general charge and custody of the girls; shall be a constant resident at the school and under the direction of the trustees; shall discipline, govern, instruct and employ, and shall faithfully endeavor to reform in such manner as shall, while preserving their health and promoting the proper developments of their physical system, secure, as far as possible, the formation of moral and industrious habits, and regular, thorough progress and improvement in their studies, trades and employments.

Duties of superintendent, &c.

SEC. 16. He shall, before entering upon the duties of the office, give a bond to the state of Ohio, with sureties satisfactory to the trustees, in the sum of ten thousand dollars, conditioned that he shall perform all the duties faithfully, and account for all moneys received by him as superintendent, which bond, when approved, shall be filed with the treasurer of the county. He shall have charge of all property pertaining to the Home within the precincts thereof, and shall keep in suitable books complete accounts of all receipts and expenditures and of all property intrusted to him, showing the income and expenses of the institution, and account to the treasurer in such manner as the trustees may require, for all moneys received by him. The books, accounts and documents relating to the Home, shall at all times be open to the inspection of the trustees. He shall keep a register containing the name and age of each girl, and, as far as possible, the circumstances connected with her history prior to the time of her admission to the Home, and he shall add thereto such facts as shall come to his knowledge relating to her history while at the institution and after leaving it.

Further duties of superintendent.

SEC. 17. All contracts on account of the institution shall be made by the superintendent in writing, and approved by the trustees, and the superintendent, or his successor, may sue

Contracts, how made, &c.

thereon to final judgment and execution. No suit shall abate by the office of superintendent becoming vacant; but any successor in office may take upon himself the prosecution or defense thereof, and upon motion of the adverse party, and notice, he shall be required to do so.

Monthly visitations.

SEC. 18. One or more of the trustees shall visit the institution at least once a month, at which time the girls shall be examined in the school-rooms and work-shops, and the register inspected. A record of these visits shall be kept in the books of the superintendent. Once in every three months the Home, in all its departments, shall be examined by a majority of the trustees, and a report thereof entered upon record.

Salaries of superintendent and matron.

SEC. 19. The salary of the superintendent shall be at the rate not exceeding one thousand dollars per annum, and of the principal matron not exceeding six hundred dollars per annum.

No debts to be contracted.

SEC. 20. No trustee, superintendent, officer or employee connected with the institution shall contract any debts for the institution in excess of the appropriations; and for any debts thus contracted, said trustee, officer or employee shall be liable in his individual capacity.

Provisions applicable to females as to males.

SEC. 21. In all provisions of this act relating to trustees, superintendent and other officers and employees of such Home, words applicable to a person or male person, holder or holders of any of said position or offices, shall be construed as applying also to any female person or persons who shall be appointed to or hold any of said positions or offices.

Females over sixteen may be committed to home by court.

SEC. 22. Any female, aged sixteen years or over, who shall, upon conviction of any minor offense be sentenced to the jail of the county wherein any such Home is established or supported, may, with the consent of the judge or justice by whom the sentence shall be pronounced, and of a majority of the trustees of such Home, (which consent, signed by said judge or justice, and by said trustees, shall be entered upon the journal of the court, or of the docket of the justice, as the case may be,) be committed to such Home, and be held subject to its rules and regulations during the period named in her sentence; if, however, during said period she shall for any misconduct be expelled from said Home, she shall forthwith be returned to the county jail, and there remain until the expiration of her sentence.

Woman or girl may be admitted to home on her own application.

SEC. 23. Any exposed, helpless, evil-disposed, vicious or friendless girl or woman of any age, may, on her own application, or with her own consent in writing, and with the consent of a majority of the board of trustees, be received into such Home, and when so received, shall be subject to the rules and regulations thereof. All such applications and consents shall be entered and copied upon the journal of the superintendent.

Trustees may be appointed guardians of minors.

SEC. 24. Said board of trustees may, with the consent of the mother given in open court, or if elsewhere, in the presence of the probate judge, be appointed guardians of any minor child of any girl or woman committed or admitted to such Home, subject to the right of any such child, not itself

committed to the Home under some foregoing provision of this act, to select another guardian on arrival at the age for election, as provided in the statute relating to guardian and ward.

SEC. 25. In case there shall be in any county described in the first section of this act, an Home for the Friendless, established by private benevolence, the county commissioners of such county may, instead of establishing a Home under this act, upon the managers of such private home agreeing to submit to, and observe and carry out the provisions of this act, and upon making such terms as to the transfer of the property of such home to the county as not require a larger outlay for any item of expenses than is limited for such item in and by the foregoing provisions of this act, receive the transfer of said home and property, and adopt and support it in the same manner as if the commissioners had originally established it.

Private homes may be transferred to county.

SEC. 26. The city council of the city of the second class, situate in such county as aforesaid, shall have the same power to establish, support and regulate, within and for such city, such a home and school as is described in the first section of this act; and in regard thereto, said council and the members thereof shall have the same powers, rights and duties, and be subject to the same prohibitions and penalties, as have hereinbefore been vested in, imposed upon, and provided for the county commissioners of any county described in the said first section; and any such city home shall be named ——— Home for the Friendless, the name of the city preceding the word Home: Provided, however, that in all cases where a city of the second class shall be situated within the limits of a county, described in the first section of this act, the city council of said city shall not proceed to establish or provide for the support of any such Home without first communicating to the county commissioners of said county a copy of a resolution passed by said council, to the effect that said council proposes to establish or support such a Home; and if within four calendar months of their receipt of said copy, said commissioners shall not make and adopt an order to the effect that they will establish or provide a county home, the aforesaid city council may proceed to establish, or adopt and support a city home. Such acts as have been hereinbefore required to be done by, through, or in connection with the county auditor, treasurer, county treasury, commissioners, journal, or other county officer, office, both, or department, in the case of a county home, shall be done through, by, or in connection with the corresponding city officer, office, both, or department, in the case of city home; provided further, that any city of the second class situate in any such county as aforesaid, may, through its city council, acting in conjunction with the commissioners of such county, contribute to the purchase of land, erection of buildings and support of such Home, or the commissioners of such county may contribute in like manner to such home in such city; but in the event of such joint contributions and co-operation, such home shall

City councils may establish homes, in certain cases.

Joint contribution of funds, &c.

be under the control of the county commissioners in case the county contribute more largely than the city, and said home shall be controlled by the city council in case the city make the greater expenditure in that behalf.

Levy for establishing and supporting home.

SEC. 27. For the purpose of establishing and supporting a county home, the county commissioners may order a levy as follows, upon the taxable property within their county, to wit:

For purchase of grounds, not to exceed two-fifths of a mill.

For erection of buildings and furnishing them, not to exceed three-fifths of a mill.

For yearly expenses, not exceeding one-fifth of a mill annually. And for a city home, the city council may levy upon the taxable property within said city as follows, to wit:

For purchasing of grounds, not exceeding one-half of a mill.

For buildings and furnishing, not exceeding one mill.

For yearly expenses, not exceeding three-tenths of a mill annually.

Construction as to Industrial School for Girls.

SEC. 28. This act shall not be so construed as to deprive any judge or court of the authority to sentence any girl to the Industrial School for Girls, established by the state of Ohio, the same as if this act had not been passed.

Girls convicted of penitentiary offenses may be sent to home.

SEC. 29. Any girl under the age of sixteen years, who may, in such county as aforesaid, be convicted of any crime punishable by imprisonment in the penitentiary (except for life), may, at the discretion of the proper court, and with the consent of the trustees of such Home, be sentenced to such Home for such period as she would otherwise be sentenced to the penitentiary.

SEC. 30. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed May 5, 1873.

## AN ACT

To amend section 16 of an act for the relief of the Poor, and to repeal certain acts therein named, passed April 26, 1872. (O. L., volume 69, page 116.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section 16 of the above recited act be so amended as to read as follows:

Admission of needy persons into county infirmary.

Section 16. Whenever, in any county having an infirmary, the trustees of any township shall, after making the inquiry provided in the 5th section of this act, be of the opinion that the person complained of is in a condition requiring public

relief, they shall forthwith transmit a statement of said facts, as far as they shall have been able to ascertain the same, to the directors of the infirmary, and if it shall appear that such alleged pauper is legally settled in said township, or has no legal settlement in this state, or that such settlement is unknown and the said directors are satisfied that such alleged pauper requires public relief, they shall forthwith issue their warrant to said trustees directing the superintendent of the infirmary to receive said pauper and provide for him or her in said institution; and except in the cases provided for in the next section of this act, the said trustees shall, as soon as the health of said pauper will permit, cause him or her to be removed to the infirmary, and thereupon said directors shall certify to the correctness of the items contained in the bill of said trustees for costs and charges incurred by them in affording relief to said paupers after complaint was made, together with the cost of said removal, which bill shall be paid on the order of the county auditor: Provided, that if such statement of facts so ascertained by the trustees of the township shall not be transmitted to the directors of the infirmary within ten days, then such township shall be liable for such relief as shall have been furnished and such medical attendance as may have been necessary prior to the transmission of such statement of facts, but no physician or surgeon having rendered necessary service to any pauper shall, for want of such notice, be prevented from receiving a fair compensation for the services so rendered, and the infirmary directors shall issue an order for the same.

Costs, &amp;c.

Liability of townships.

Compensation of physicians for services.

SEC. 2. That original section 16, be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed May 5, 1873.

## AN ACT

Supplementary to an act to authorize the Board of Public Works to enlarge the culverts on the Miami and Erie canal, passed and took effect March 19th, 1868. (Ohio Laws, vol. 65, pages 31 and 32.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Paulding county are hereby authorized and empowered to construct a ditch along the south side of the Wabash and Erie canal from the east end of the six mile reservoir, to the culvert constructed under the provisions of the act to which this is supplement-

Commissioners of Paulding county may construct a ditch, &c.

tary ; said ditch to be dug in accordance with the plans and suggestions, and under the supervision of the resident engineer of that division of said canal.

Appropriation therefor.

SEC. 2. There is hereby appropriated the sum of three thousand and three hundred and seventy dollars, being the unexpended balance remaining in the treasury appropriated by the act to which this act is supplementary, to be drawn from the treasury upon the warrant of the auditor of state, and applied by the said commissioners of Paulding county for the purposes and in the manner provided for in the first section of this act.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed May 5, 1873.

## AN ACT

To prevent the running at large of stallions, jacks, bulls, boars or bucks.

Unlawful to permit certain animals to run at large; penalty therefor.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That it shall be unlawful for the owner or owners, keeper or keepers, of any stallion, jack, bull, boar or buck, to allow the same to go or be at large, out of his, her or their own enclosure, under penalty of ten dollars for the first offense, and of twenty-five dollars for each and every subsequent offense, to be recovered by civil action, in the name of the state of Ohio, before any justice of the peace of the township in which such owner or owners, keeper or keepers, or either of them, may reside; and such penalty shall be for the benefit of, and when collected shall be paid into, the common school fund of the township in which the complaining witness may reside, provided it be within the county in which the suit is brought; otherwise it shall be for the benefit of, and when collected paid into, the common school fund of the township in which the suit is brought; and provided also, that such suit shall be brought within sixty days after said animal is found to be at large contrary to the provisions of this act.

SEC. 2. An act entitled "An act to amend an act entitled an act to prevent the running at large of bulls, boars and bucks," passed April 13, 1863, be and the same is hereby repealed.

SEC. 3. This act shall take effect from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed May 5, 1873.

## AN ACT

To regulate the practice of Pharmacy in certain cities of the first class, and for other purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That from and after the passage of this act, it shall be unlawful for any person to open or conduct any retail drug or chemical store, as proprietor or manager thereof, or engage in the occupation of compounding or dispensing medicines on prescriptions of physicians, or of selling at retail any drugs, chemicals, poisons, pharmaceutical preparations, or other medicines, within the corporate limits of any city of the first class in this state, having a population exceeding one hundred and seventy-five thousand inhabitants, untill he shall have complied with the provisions of this act.

Compliance with the provisions of this act required.

SEC. 2. That there shall be nominated, on the first day of the month of June next and each and every second year thereafter, by the trustees of the incorporated college of pharmacy, or incorporated association of pharmacists for the advancement of pharmacy in said city, ten persons from and out of the most skilled and competent pharmacists at the time doing business in the said city; and from and out of the ten persons so nominated, the judges of the court of common pleas of and for the county in which the said city is located, shall select and appoint three persons, who shall constitute a board, to be styled the Pharmaceutical Examining Board of the city of Cincinnati. They shall hold office for two years, and until their successors are duly appointed and qualified. They shall each of them, within ten days after their appointment, take and subscribe to an oath or affirmation, before some competent officer, that they will faithfully and impartially perform the duties of their office; and any vacancy that may occur shall be filled for the unexpired term by the judges of the court of common pleas aforesaid, from and out of the persons previously nominated, as provided above.

Pharmaceutical examining board of Cincinnati.

Ans: 2:12:16

SEC. 3. That the Pharmaceutical Examining Board shall keep a book of registration, open at some convenient place, of which due notice shall be given, in two newspapers of general circulation in the said city. In said book shall be registered the name and place of business of every person duly qualified under this act to conduct the retail drug or apothecary business; and it shall be the duty of each and every person now conducting, or who shall hereafter conduct the business of retail apothecary in said city, to appear before said Pharmaceutical Examining Board, and be registered, within thirty days after notice. The said board shall demand and receive for such registration from the person registered a fee of not exceeding five dollars (\$5.00), to be applied to the payment of the expenses arising under the provisions of this act.

Registration of persons engaged in drug or apothecary business.

SEC. 4. That the Pharmaceutical Examining Board shall examine every person who shall desire to carry on or engage

Ans:

Examina-  
tions by  
pharmaceu-  
tical board.

in the business of a retail apothecary, or that of retailing drugs, chemicals, poisons or other medicines, or compounding or dispensing of the prescriptions of physicians, touching his competency and qualification for that purpose; and upon the majority of the said board being satisfied of such competency and qualification, the board shall furnish such person a certificate of his competency and qualification, which certificate shall entitle the person named therein to conduct and carry on the business aforesaid.

Provisions  
not applica-  
ble to certain  
druggists  
&c.

SEC. 5. That the provisions of section four of this act shall not apply to any person who shall be engaged in the retail drug and apothecaries' business as proprietor of the same, in said cities, at the time of the passage of this act, or who shall hold the diploma of an incorporated college of pharmacy, whose diploma is granted and based upon a regular and previous term of service in the drug and apothecary business in addition to the instructions received in said college.

Qualifica-  
tions neces-  
sary for as-  
sistants, &c.

SEC. 6. That no person not a qualified assistant shall be allowed by the proprietor or manager of any store to compound or dispense the prescriptions of physicians, (except as an aid under the immediate supervision of said proprietor or his qualified assistant), unless he has been at least two years apprenticed in a store where prescriptions of physicians are compounded and dispensed, and has attended one full course of lectures in chemistry, materia medica and pharmacy.

Who consid-  
ered quali-  
fied assist-  
ants.

SEC. 7. That a qualified assistant, in the meaning of this act, shall be a graduate in pharmacy as provided in section five of this act, or a person holding the certificate of the Pharmaceutical Examining Board as provided in section four of this act.

Penalty for  
violating  
provisions of  
this act.

SEC. 8. That all persons violating the provisions of this act relating to registration, shall be liable to a penalty of not exceeding one hundred dollars for each and every week during which he or they shall continue to carry on such business without such registration as provided by this act. And should any injury or damage accrue to any person by any pharmacist violating the provisions of section six of this act, said pharmacist shall be liable to pay a penalty not exceeding one hundred dollars, in each and every case, the penalty to be recovered for the use and benefit of the board of health of the said city, before any court of competent jurisdiction.

SEC. 9. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed May 5, 1873.



## AN ACT

To provide for the incorporation of Boards of Education of religious denominations.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be lawful for any board of education, board of trustees or other like body, consisting of any number of natural persons not less than three, elected for the purpose of promoting any branch of education by any presbytery, conference, synod or other ecclesiastical body of any religious sect or denomination, at any meeting held in the United States of America, to become, with their successors elected according to the rules of such ecclesiastical body, a body corporate for such purpose.

Boards for religious education may become bodies corporate.

SEC. 2. A majority of the members of every board of education or board of trustees, created under the provisions of this act, shall be bona fide residents of the state of Ohio.

Members of boards must be residents of the state.

SEC. 3. That in and by the name which they may adopt, they may sue and be sued in all the courts within this state, may hold and convey all kinds of estate which they may acquire by purchase, donation, devise or otherwise, and be vested generally with the powers and subject to the same liabilities which now are or may hereafter be conferred or imposed upon similar corporations by the laws of this state.

Their rights and privileges.

SEC. 4. That there shall be filed in the office of the recorder of the proper county a certificate of election of such persons, containing the name by which such corporation is to be known, and signed by the clerk or secretary of said presbytery, conference, synod or other ecclesiastical body, together with the certificate of three or more of the persons so elected that they have accepted of said office, which certificate shall be entered by the recorder in the proper records; provided, that such corporation shall have an agent resident in the county in which it shall maintain any institution for the purpose aforesaid, or in which it shall have its principal office, and in all actions against such corporations service of summons upon such agent shall be sufficient.

Certificates of election, &c., must be filed.

SEC. 5. This act shall take effect on its passage.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed May 5, 1873.

## AN ACT

To authorize the increase of capital stock of Railroad companies.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That any railroad heretofore incorporated under

For what  
purposes  
capital stock  
may be in-  
creased.

any special or general laws, or which may hereafter be incorporated under the general laws of this state, whenever, in the opinion of the directors thereof, it becomes necessary for the speedy and convenient transaction of its business to construct a second additional track, extend its line, or construct branches thereto, increase its machinery, rolling stock, depots or other fixtures, or for the purpose of paying any bonds issued or guaranteed by it, or for the purchase of any railroad within this state, which has been or may hereafter be sold by a judicial order or decree (or the assigns of such purchasers organized and acting as a company, incorporated or unincorporated,) desirous of completing its line of road, or liquidating or paying off any unfunded or floating debt or debts, or other liabilities incurred in the construction or equipment of its road, or for the purpose of extending the same or constructing branches as authorized, or for either or all the purposes aforesaid, they may increase the capital stock as hereinafter provided.

Consent of  
two-thirds  
in interest  
of stock  
requisite.

SEC. 2. Before any stock shall be issued under this act, a majority of the directors of such railroad company shall call a meeting of the stockholders thereof, designating distinctly the time, place and purpose of said meeting, and amount of stock required; which meeting shall be held at the principal business office of said company in this state. Notice of said meeting shall be given for at least thirty days previous, by continued publication in at least two newspapers published and having general circulation within the state; also, by a like notice, mailed thirty days previous to the time named for said meeting, to each stockholder whose residence is known. If at said meeting thus authorized, the consent of two-thirds in interest of the existing stock of said company shall be given, the authorized stock of such company may be increased to such an amount as may be decided necessary or requisite for the purposes named in section one of this act.

Common or  
preferred  
stock.

SEC. 3. The increase of stock hereby authorized may be "common" or "preferred," as shall be designated in the call for the meeting of the stockholders as herein provided for. If preferred stock is issued, such railroad company may guarantee to the stockholders thereof semi-annual or quarterly dividends, to an amount not exceeding eight per centum per annum, payable at its office or at such other place as the directors may designate. The stock herein provided for may be sold at such time and place, either within or without the state, as may be deemed advisable, the proceeds thereof to be applied to the purposes for which the same is issued. The unpreferred stock of such company shall be entitled to dividends only out of the surplus of the profits, after setting apart a sum sufficient to pay the dividends upon the preferred stock. The company issuing such preferred stock shall reserve the privilege of redeeming and canceling the same at par, at any time after three years from the date of its issue. The preferred stock herein provided for may be convertible into bonds of the company issuing the same, at the option of the parties.

Dividends,  
right of re-  
deeming, &c.

SEC. 4. Within ten days after such meeting, the president and secretary of said company shall make out an abstract,

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stating the whole amount of pre-existing stock, the amount authorized and the vote at said meeting, adding a certificate that the provisions of this act have been fully complied with, to which abstract and statement they shall make affidavit and file the same in the office of the secretary of state, who shall cause the same to be made a matter of record.

Abstract, &c., to be filed in secretary of state's office.

Sec. 5. That any railroad company heretofore or that may hereafter be incorporated under the laws of this state, or the purchasers of any railroad within this state, which has been or hereafter may be sold pursuant to judicial order or decree, or the assigns of such persons organized and acting as a company, may, for the purpose of completing its line of road, or extending the same, or laying a double or additional track, in whole or in part, or constructing authorized branch roads, or increasing its machinery, rolling stock, depots, shops, or other improvements, or paying its unfunded debts, or redeeming its bonds, issue its bonds, convertible or otherwise, bearing any rate of interest not exceeding eight per centum per annum, to an amount not exceeding two-thirds of its authorized capital stock, and sell the same at such times and places within or without the state, and at such rates, as the directors of said company may deem for its best interests; and such company may secure such bonds by mortgage on its property, or otherwise, if authorized by the vote of a majority of the stockholders representing a majority of the capital stock, in person or by proxy, at any regular meeting, or at any special meeting after thirty days notice.

For what purposes bonds may be issued, &c.

SEC. 6. The sixth section of an act regulating railroad companies, passed February 11, 1848 (S. & C., 272); the eighth section of an act to provide for the creation and regulation of incorporated companies in the state of Ohio, passed May 1, 1852 (S. & C., 276); the first section of an act authorizing railroad companies to issue bonds and increase their capital stock in certain cases, passed March 11, 1853 (S. & C., 323); an act to enable railroad companies to fund their floating debts, passed March 29, 1856 (S. & C., 324); the second section of an act to amend the act entitled an act to provide for the creation and regulation of incorporated companies in the state of Ohio, passed May 1, 1852, and to regulate railroad companies, passed April 15, 1857 (S. & C., 325); an act to authorize railroad companies to increase their capital stock, passed April 11 [12], 1858 (S. & C., 326); an act to authorize railroad companies to increase their capital stock and issue bonds in certain cases, passed April 9, 1863 (S. & S., 123); an act to amend an act to authorize railroad companies to increase their capital stock and issue bonds in certain cases, passed April 9, 1863, passed April 12, 1870 (67 O. L., 44); and an act to enable railroad companies to redeem their bonded debts, passed April 16, 1870 (O. L., 89), be and the same are hereby repealed.

Acts repealed.

SEC. 7. This act shall take effect on its passage.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

ALLAN T. BRINSMADE,

Passed May 5, 1873. *President pro tem. of the Senate.*

## AN ACT

Supplementary to the Municipal Code regulating surface drainage.

Rights of private owners to use public drains, etc.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That in every city within this state, in which any system or plan of drainage has been adopted by competent municipal authority, and completed, any private owner or occupier of real estate contiguous to any part of such system or plan of drainage as may drain and carry off all the surface or accumulated waters upon such real estate in such municipal corporation so situated, into such completed system or plan of drainage, and thereafter and so long as such owner or occupier shall reasonably provided for draining or carrying off the surface or accumulated waters upon such real estate into such completed system or plan of drainage, such owner or occupier shall not be liable to any action by any neighboring owner or occupier of real estate for water that may flow against, upon or over his, her or their real estate, or injure the same, or the property thereon, after the same shall have been so discharged into the system or plan of drainage as aforesaid.

SEC. 2. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed May 6, 1873.

## AN ACT

To provide for the furnishing of blanks and stationery for sheriffs.

County commissioners to furnish sheriffs with blanks.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the county commissioners shall furnish to the sheriffs of their respective counties all blank-books, stationery and blanks necessary to the prompt discharge of their duties, and the same shall be paid for out of the county treasury on the warrant of the county auditor.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed May 6, 1873.

## AN ACT

To amend section six of an act entitled "An act to regulate contracts on behalf of the State," passed April 3, 1873.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section six of the above entitled act be so amended as to read as follows:

Section 6. That no contract or contracts shall be made for the labor or material herein provided for at a price in excess of the entire estimate thereof, in this act required to be made, and the entire contract or contracts shall not, including estimates of expenses for architects and otherwise, exceed in the aggregate the amount authorized by law for such institution, asylum, or other improvement, or such addition to or alteration or improvement thereof.

Prices in excess of estimates forbidden.

SEC. 2. That said section six be and the same is hereby repealed.

SEC. 3. This act shall take effect from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed May 6, 1873.

## AN ACT

To amend section eleven (11) of an act entitled an act to organize and regulate an Independent Militia, passed April 18, 1870. (Vol. 67, Laws, page 107.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section eleven of said act be so amended as to read as follows:

Section 11. The style of the uniform shall be such as each company or battery may adopt, and the uniform of the officers shall correspond therewith.

Style of uniforms.

SEC. 2. That section eleven of said above mentioned act is hereby repealed.

SEC. 3. This act shall take effect from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed May 6, 1873.

## AN ACT

Prescribing the duties of certain officers in counties having a Board of Control.

- SECTION 1.** *Be it enacted by the General Assembly of the State of Ohio,* That in all counties having boards of control established therein, it is hereby made the duty of the county auditor to furnish to the board of commissioners and the board of control thereof, on or before the first Monday in April in each year, the following statements, which he shall have printed in such manner as said boards may by previous order direct:
1. A statement showing the balance standing to the credit or debit of the several funds on the county balance sheet at the end of the last week of the March preceding said first Monday of April, and in said statement shall be included the distribution of the taxes collected in the December previous.
  2. A statement showing the monthly expenditure out of each fund in the twelve months, and in every one of them preceding said first Monday in April.
  3. A statement showing the annual expenditure from each fund for each year for the five years preceding said day.
  4. A statement showing the monthly average of such expenditure from the several funds for the preceding year, and also the total average for all of them for the five preceding years.
  5. A statement containing an approximate and detailed estimate of the money needed to be provided so as to pay all lawful expenses of the county and its several departments, offices and institutions, for the twenty months following said first Monday in April, but in said estimate no greater sum shall be estimated and reported than fifty thousand dollars per month, or one million dollars for the twenty months. And in calculating the amount of money needed, he shall take into account the money then in the treasury, as well as that collectable in June following, and also the probable proceeds from the tax levy of that year, as he shall estimate the same as hereafter required. He shall be equally careful to avoid surpluses and deficits. He shall treat as means available for current expenses the June and December collections as soon as under the laws or usages he has a right to presume them to be in the treasury, without waiting for their subsequent distribution to the respective funds.
  6. A statement estimating the total percentage he deems necessary to be levied in that year so as to provide sufficient means for paying county expenses for the fiscal period named for statement No. 5, to wit: twenty months; and he shall also report in said statement to what funds said total levy should, in his opinion, be apportioned as special levies.
- SEC. 2.** The several members of the two boards aforesaid shall examine and revise said statements carefully, and ten days after said first Monday in April, the board of commissioners shall first meet and determine the total tax levy they shall deem necessary for that year, which they shall apportion

Information to be furnished to boards of control and commissioners by county auditor.

Balances of debt or credit.

Monthly expenditure.

Annual expenditure for five years.

Monthly average of expenditure.

Estimate of money needed.

Percentage necessary to be levied.

Examination and revision of statements.

tion to the several funds, but not higher, however, in total levy than that estimated by the auditor, and this action of theirs they shall transmit to the board of control for its approval, amendment or rejection, within the limits aforesaid.

SEC. 3. It is hereby made the duty of the board of commissioners to make in the first week of May each year, detailed and specific appropriations for the several objects for which the county has to provide, apportioned to months, of the moneys known to be or estimated to come into the treasury during the twelve months next ensuing, including in their estimate the next semi-annual December collection of taxes, and being careful to provide in their appropriations for every legitimate county expenditure, and to apportion the said means fairly among all of them, but not more for the whole appropriation than fifty thousand dollars a month for the twelve months aforesaid, and their action hereon they shall transmit to the board of control for approval, amendment or rejection, as they may determine. All expenditures within the following twelve months shall be made in accordance with and within said appropriation; balances thereof remaining over at the end of the year shall then no longer be open for payment therefrom, and be reccredited to the funds from which they were taken.

Appropriations to be made by commissioners.

SEC. 4. To enable the county auditor and the two boards aforesaid to estimate correctly the levies and appropriations aforesaid, it is hereby made the duty of the authorities of the county institutions, as well as of every head of a department or office in the county for whose wants provision is to be made, to report to the auditor on or before the first Monday in March in each year the amount of money needed for their respective wants for the ensuing year, said estimate to be given for each month. The auditor, as well as the two boards, shall revise them, and if deemed proper in their opinion reduce them so as to bring them within fair limits to the other expenditures required for the county or its business.

Institutions and departments to report their wants to auditor.

SEC. 5. No liability whatever shall be created against any county embraced within the provisions of this act, and no expenditure shall be made for the same unless the same is previously covered by an appropriation, and sanctioned both by the board of commissioners and board of control, each being separately assembled in lawful meeting at the courthouse.

No liability or expenditure without appropriation.

SEC. 6. It is hereby made the duty of the county solicitor to be present at the respective meetings of the board of commissioners and board of control, his presence to be noted in the minutes. He shall be entitled to protest against any action taken, which protest shall be entered on the minutes. Any county officer may consult him as to his official duties, and he shall furnish them opinions in writing, except in cases in which the interests of said officer may conflict with that of the county.

Duties of county solicitor.

SEC. 7. It is hereby made the duty of every officer of the county to furnish to the board of commissioners and the board of control such information as pertains to the business of their respective offices, as said board, or either of them, may

Every officer shall furnish necessary information.

require by a resolution duly passed and entered on the minutes.

Joint sessions of commissioners and board of control.

Joint rules.

SEC. 8. The two boards of commissioners and control shall, as soon as possible after the passage of this act, meet in joint sessions, for which five members of both boards shall be a quorum, but a majority of each board shall be necessary to decide all questions; and at these joint sessions the members present shall take the necessary steps for preparing and adopting joint rules for the government of their official intercourse. In said joint rules shall also be contained rules and regulations prescribing the mode and manner in which accounts shall be made out against the county, how and by whom they shall be examined and certified to, and how they shall be audited before being allowed and approved by said boards; and the said rules and regulations shall also prescribe how monthly pay-rolls shall be made out by each of the county institutions, offices and departments, and upon what evidence the auditor may draw his warrants for the same.

SEC. 9. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed May 5, 1873.

## AN ACT

### For the disposition of Unclaimed Costs.

Justice shall make out lists of cases on his docket.

Disposition of said lists.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That every justice of the peace shall, on the first Monday of April in each year hereafter, make out two certified lists of all causes on his docket, civil and criminal, in which money may have been paid and remained in his hands for a period of one year or more, designating to whom the same may be payable, and the amount payable to each; one of which lists he shall, on or before the next succeeding Monday, set up in some conspicuous place in his office, and the other in the office of the clerk of the common pleas court of his county; and whenever any justice of the peace retires from office, whether by expiration of term without reelection, resignation or otherwise, he shall, within one week after so retiring, make out two like lists but containing all causes in which money may have been paid and remained in his hands, without reference to the time when the same was received; one of which he shall, within one week thereafter, set up in some conspicuous place in the office of the justice of the peace with whom he is required to deposit his civil docket, and the other in the office of said clerk of court; and



in case of the death of any justice of the peace his legal representative shall, within one week after qualifying as such, make and set up like lists as last above required in the same places as last above specified.

SEC. 2. All such moneys, whether fees, costs, debt, damages or other moneys so specified in said lists, as shall remain in the hands of the justice or ex-justice, or the legal representative of either so advertising the same, at the expiration of one year after the time of such advertisements shall be by him paid over to the treasurer of the county, taking his duplicate receipts therefor, containing a copy of said lists, one of which he shall retain and preserve, and the other of which he shall forthwith file with the auditor of the county; and any person entitled to any of said moneys shall receive an order therefor from the auditor of the county on the county treasury upon producing the certificate of the justice or ex-justice by whom the same was paid over, or his successor in office, or upon his otherwise satisfactorily showing that he is entitled to the same.

Disposition  
of unclaimed  
moneys,  
costs, etc.

SEC. 3. Any justice of the peace or ex-justice of the peace who shall fail or neglect to make and set up said lists within the time and at the places herein required, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than ten or more than fifty dollars.

Penalty for  
neglect to  
publish lists  
as above.

SEC. 4. This act shall take effect and be in force from its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed May 5, 1873.

## AN ACT

To establish a Superior Court for the city of Cleveland,  
and to repeal an act therein named.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That there shall be and hereby is established, within the city of Cleveland, a court of record, which shall be styled the superior court of Cleveland, which shall consist of three judges, who shall be elected by the electors of said city, and shall hold their offices for the term of five years.

Superior  
court of  
Cleveland  
established.

SEC. 2. The first election for judges of said court shall be held on the second Tuesday of June, A. D. 1873, and the official term of said judges shall commence on the first Monday of July, A. D. 1873. All subsequent elections for judges of said court shall be held on the second Tuesday of October next preceding the expiration of the regular term of said judges, and in case the office of said judges, or any of them,

Elections of  
judges.

shall become vacant before the expiration of the regular term for which they were elected, the vacancy shall be filled by appointment by the governor, until a successor is elected and qualified; and such successor shall be elected for the unexpired term on the second Tuesday of October that next occurs more than thirty days after the vacancy shall have happened.

Election as  
prescribed  
by law.

SEC. 3. The election for judges of said court shall be held in the city of Cleveland, and shall be conducted in the manner prescribed by the laws now in force regulating the election of municipal officers.

Oath of  
judges.

SEC. 4. The said judges shall take the same oath and be removed for the same cause as judges of the court of common pleas.

Seal of court.

SEC. 5. The said court shall have a seal, to be provided by the secretary of state, at the expense of the state, having the same device as the seal of the court of common pleas, except that there shall be engraved around the margin, "Superior Court of Cleveland," instead of the words "Common Pleas of the County of —."

Clerk of the  
court.

SEC. 6. The clerk of the court of common pleas of Cuyahoga county shall be the clerk of said court hereby established, and besides the bond now required of him by law, shall give an additional bond in not less than fifteen thousand dollars, nor more than thirty thousand dollars, to the acceptance of the council of the city of Cleveland, conditional that he will truly and faithfully pay over all moneys that may be by him received in his official capacity as clerk of said superior court, and that he will enter and record all the orders, decrees, judgments and proceedings of said court, which he may by law be required to enter and record, and faithfully and impartially discharge all the duties of said office.

Duties of  
Sheriffs, con-  
stables, &c.

SEC. 7. Sheriffs, coroners and constables shall be bound to attend said court, preserve order and execute and return its process as they are required to do in the court of common pleas, and all laws now in force, or which may be enacted prescribing the duties and liabilities of such officers, and the mode of proceeding against them or either of them, for any neglect of official duty, allowing fees, and providing for the collection thereof in the court of common pleas, shall be held and deemed to apply to said superior court, unless the same are or shall be plainly inapplicable.

Place of  
holding  
court.

SEC. 8. The superior court of Cleveland shall be held at the court house in Cleveland, or at such other convenient place in said city as the commissioners of Cuyahoga county shall provide, and the said county commissioners shall provide a suitable place for holding said court.

Monthly ses-  
sions of  
court.

SEC. 9. The terms of said court shall commence on the first Monday of every month, except the months of July and August, in which months terms may be held if directed by said court at any previous term, and the terms thereof shall be respectively called after the different months in which they are held, and may be continued and held from the time of the commencement, every day, Sundays excepted, until

and including the last Saturday before the first Monday of the next month, and said terms may be held by any or all of said judges of said court, and said judges may hold said court sitting separately.

SEC. 10. The judges of said court may dispense with any term of said court, adjourn the same on any day previous to the expiration of the term for which the same may be held, and also from any one day in the term over to any other day in the same term, if, in their opinion, the business of the court will admit thereof.

Adjournments, &c.

SEC. 11. In case said court shall not be held at the time appointed, or any term thereof shall be interrupted by reason of the non-attendance of the judge thereof, it shall be lawful for the clerk of said court to adjourn the same from day to day, or until the next term, and all process and other proceedings shall be continued over accordingly.

Clerk may adjourn court in certain cases.

SEC. 12. A general term of said court may be held by any two of the judges as they shall direct, and the regular terms by any one of them, and the general and regular terms, one or more of them, may be held at the same time, as the judges of the said court may direct.

General and regular terms.

SEC. 13. The regular terms of said court shall be for the trial of causes and the hearing of motions. All petitions in error shall be argued or submitted, and decided in said court at a general term thereof. The concurrence of two judges shall be necessary to pronounce a judgment at a general term. If the requisite number of judges do not concur, the matter shall be reheard.

Business of regular terms.

SEC. 14. A judgment rendered or final order made by the said superior court of Cleveland at a regular term, may be reversed, vacated or modified by the said superior court at a general term, for errors appearing in the proceedings at a regular term, or by exceptions taken in accordance with Article V., Title 9, of the Code of Civil Procedure. The proceedings to obtain such reversal, vacation or modification, shall be by petition, to be entitled "petition in error," and shall be the same as those provided by the code of civil procedure upon petitions in error, except that it shall not be necessary to file with the petition a transcript of the proceedings, as required by section 517 of the code; but the petition in error shall be heard upon the original files, pleadings and proceedings; and the said superior court, at a general term thereof, shall have the power to render such judgment as should have been rendered at a regular term, or remand the cause to the regular term for judgment, and upon such judgment execution may issue, as upon original judgments.

Reversal, &c., of judgments.

SEC. 15. A judgment rendered, or final order made, by said superior court, at a general term thereof, may be reversed, vacated or modified by the supreme court, for errors appearing on the records; but the petition in error in such case can be filed only by leave of the supreme court, or a judge thereof, in the same manner and within the same time as is now, or may be hereafter, provided for reversing, vacating or modifying the final judgments, orders or decrees of district courts of this state.

The same.

Questions reserved for general term.

**SEC. 16.** That it shall be lawful for any judge of the superior court sitting in regular term, to reserve and adjourn for the decision of the said court in general term, any questions of law or fact arising in any case upon the record, or upon evidence in writing, and when the decision of such questions authorizes or requires a final order or judgment, the same may be entered by the court in general term, and either party shall have the same right of exception, or review or error, as if the case had been remanded, the order or judgment entered at regular term, and been then excepted to and affirmed at the general term.

Rules, regulations, etc.

**SEC. 17.** The said superior court shall have full power to classify and distribute the business therein, as may be necessary; to make rules and regulations for practice therein; to appoint masters, receivers, and other officers necessary to facilitate its business; to direct as to the mode of proceeding by or before said officers; and to tax costs.

Vacation and modification of judgments.

**SEC. 18.** Said court, at regular term, shall have the same power to vacate or modify its own judgments or orders, rendered at a regular term, and to enter judgments by confession, as is or may be vested by law in courts of common pleas.

Jurisdiction, etc., of common pleas and district courts extended to superior court.

**SEC. 19.** All laws now in force or which may hereafter be enacted conferring powers, authority and jurisdiction in civil cases, and the proceedings upon the courts of common pleas or district courts, giving them power to hear and determine cases, and to preserve order, and punish contempt, regulating their practice and forms of process, prescribing the force and effect of their judgments, orders or decrees, and authorizing or directing the execution thereof, shall be held and deemed to extend to the said superior court to the extent of its territorial jurisdiction as fully as they extend to the said courts of common pleas and district courts, unless the same be inconsistent with this act, or plainly inapplicable, and the said superior court, in respect to the form and manner all of pleadings therein, and the force and effect and lien of its judgments, orders or decrees, shall be deemed and held a court of general jurisdiction; and said court shall sign bills of exceptions, if required, the same as is provided for in trials in the court of common pleas.

Cases in which superior court shall not have jurisdiction.

**SEC. 20.** The said superior court within its territorial jurisdiction shall have the same powers, authority and original jurisdiction in civil actions and other proceedings as by the constitution and laws have been or may be conferred upon the court of common pleas, except that said superior court shall have no jurisdiction in criminal or bastardy cases, nor in applications for divorce and alimony, nor for alimony, nor for the benefit of the laws for the relief of insolvent debtors, nor of appeals from justices of the peace or from the probate court, nor for proceedings to reverse the judgment of justices of the peace, police court or of the probate court, nor for proceedings to appropriate lands or assessment of damages in behalf of any municipal or other corporation.

SEC. 21. The judges of said superior court, in the exercise of the jurisdiction hereby conferred, and in granting remedial writs and orders shall, in the recess of said court, have the same power and authority as the judges of courts of common pleas.

Power and authority in recess.

SEC. 22. That there shall be hereafter annually apportioned and selected in the county of Cuyahoga three hundred judicious persons having the qualifications of electors to serve as petit jurors the ensuing year in the manner now or hereafter provided by law for the selection of jurors, and the clerk of said court shall, at least ten days previous to each term of said superior court, unless otherwise ordered by the judges of said court, draw in the manner provided by law the names of twenty-four persons to serve as petit jurors, and the clerk of said court shall forthwith issue a *venire facias* to the sheriff of said county commanding him to summon the persons whose names shall have been drawn as aforesaid to attend as petit jurors at the court house in Cleveland on the first day of the next term of said superior court, and in all other respects the laws now in force governing the summoning special ventres and struck juries, and empanneling, challenging, swearing and the payment of petit jurors shall apply to the jurors of the said superior court, unless the same are inconsistent with this act or plainly inapplicable: Provided, that the jurors for the present year shall be selected and summoned for said court in such a manner and at such time as said court shall direct, and said jurors shall be paid out of the treasury of the city of Cleveland.

Apportionment, etc., of petit jurors.

SEC. 23. That whenever a jury shall have been empaneled for the trial of any case in the said superior court, and it shall be deemed proper in the discretion of the court, by reason of the approaching termination of any term of said court, to continue and adjourn such trial to the next succeeding term, it shall be lawful for the court to order and direct that the trial be adjourned, and the jury attend on a day to be specified in the next succeeding term, on which day the jury shall be called and the case proceed and be disposed of, as if the trial had commenced at such succeeding term.

Continuance and adjournment of trials.

SEC. 24. The judges of said superior court shall be entitled to receive annually, the sum of twenty-five hundred dollars, payable in equal installments at the state treasury on the first Monday of October, the first Monday of January, the first Monday of April, and on the first Monday of July.

Salary of judges.

SEC. 25. That the city council of Cleveland, in addition to the salary provided for in section twenty-four, shall pay out of the treasury of said city to each of the judges of the superior court of Cleveland for their services respectively the sum of not less than two thousand dollars annually, at the discretion of said city council of Cleveland, the same to be paid quarterly in equal proportions, and when the salary shall be once fixed, the same shall not be increased or diminished during the residue of the term of office of said judges; and to pay the said salaries, fees of jurors, and other expenses of said court, the said city council shall have power to levy and

Additional compensation by city.

collect a tax on the real and personal property in said city, as the same has been or shall be appraised on a grand levy of the state; and the judges of the court of common pleas in the county of Cuyahoga hereafter elected or appointed therein shall receive, in addition to the salaries now paid to them out of the treasury of Cuyahoga county, the sum of two thousand dollars, to be paid to them in like manner and at such times as provided by law for the payment of the present salaries of judges out of the state treasury.

Transfer of cases to superior court by consent of parties.

SEC. 26. The parties to any civil action or proceedings originally commenced in the court of common pleas of Cuyahoga county, and now or at any time hereafter pending therein, of which the superior court would have jurisdiction if commenced therein, may, by written consent, signed by themselves or their attorneys, remove the same to said superior court. The clerk of the court of common pleas, upon the application to remove, shall make out a statement, under seal, of the docket entries in such case, with a statement of his costs, and deliver the same, with all the original papers in the cause, to the parties or their attorneys, taking their receipt for the same; and, upon the filing of said papers, with the written agreement to remove, with the clerk of said superior court, he shall forthwith docket the cause, and the same shall be thenceforth considered in said court, and be proceeded in as if the cause had been originally commenced in that court, having regard to the former proceedings, the agreement to remove, and the costs before accrued, in the final record, as may be right and proper; and when such case is removed from the court of common pleas as aforesaid, the clerk shall enter such removal on his docket, and from thenceforth the said cause shall not be considered in that court, and in like manner the parties to any cause now remaining on the docket of the district court of said county, appealed from the court of common pleas, may remove the same to the said superior court, the same to be tried therein only at general term, and the judgment, orders or decrees rendered therein by said superior court shall be remanded to the court of common pleas for execution, the same as if it had been finally determined by the said district court of said county.

Removal of cases in which judges are interested.

SEC. 27. If all the judges of said superior court shall be interested in the event of any action pending before them, the same shall be removed for trial into the court of common pleas of Cuyahoga county, under an order of said court.

Act repealed.

SEC. 28. That an act entitled an act to authorize the election of an additional judge of the court of common pleas in the county of Cuyahoga, passed February 24, 1869, be and the same is hereby repealed; provided, however, that the repeal of said act shall not affect the term of any common pleas judge elected thereunder.

Territorial limit of jurisdiction.

SEC. 29. The territorial jurisdiction of said court, except as otherwise provided, shall be co-extensive with the territorial limits of said city of Cleveland, and in all cases in which by law actions may be commenced and summons served upon

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defendants who are non-residents of the county in which said actions are brought in the several courts of common pleas of this state, actions may be commenced and service of summons had in like manner in said court on non-residents of said city of Cleveland, and in all cases of foreclosure of liens and mortgages, embracing lands situated partly within and partly without said city of Cleveland, said court shall have the same jurisdiction as if said lands were situate wholly within said city.

SEC. 30. This act shall be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed May 5, 1873.

## AN ACT

For the relief of Jonathan Markley.

WHEREAS, On the 26th day of February, 1859, the auditor of Harrison county, Ohio, took possession, in the name of the state of Ohio, of the north west part of the north-west quarter of section 33, township 12, and range 5, in said county, containing twenty acres, supposed to have escheated to the state, and by proceedings had under the act of February 8, 1847 (S. & C., p. 65), sold the same on that day to Jonathan Markley for \$555.01, and made him a deed therefor as authorized by said act, and the entire purchase money thereof, in accordance with said act, has been paid into the treasury of the state of Ohio; and,

Recitation.

WHEREAS, At the October term, 1872, of the court of common pleas of said county, in a suit by Ann Hedley vs. Jonathan Markley, it was adjudged by the said court that Ann Hedley is the legal heir to said premises, and had judgment of recovery, and for rents and costs; and,

WHEREAS, The act under which said sale was made provides that upon such property being legally reclaimed by any heir, the purchaser of the state shall be paid the original purchase money and legal interest to the time of such reclamation; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the auditor of state be directed and required to draw his warrant on the state treasury in favor of said Jonathan Markley for the sum of \$555.01, the amount

Payment to  
 Jonathan  
 Markley.

of purchase money so paid by him for said escheated land, with legal interest from the 26th day of February, 1859, the date of the payment thereof.

SEC. 2. This act to take effect from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed January 29, 1873.

## AN ACT

To refund certain moneys to the county of Harrison and other corporations therein named.

Auditor of  
State to re-  
fund certain  
taxes.

Appropriation  
therefor.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the auditor of state is hereby directed and required to ascertain the amount of taxes which was paid into the treasury by the Harrison Branch Bank of the State Bank of Ohio, as was computed and paid upon the local levies for the years 1859 and 1860, by the said branch bank, for county, township and other local organization taxes, and to draw his warrant upon the treasurer of state in favor of the treasurer of Harrison county for the local taxes thus paid into the state treasury; and there is hereby appropriated out of any money in the state treasury belonging to the general revenue fund, and not otherwise appropriated, for the purpose aforesaid, the sum of two thousand six hundred and twenty-eight dollars and twenty-nine cents.

SEC. 2. This act to take effect on its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed February 7, 1873.

## AN ACT

To authorize the excavation of a channel and removal of obstructions in the slack-water at the Providence Feeder Dam, on Northern division of the Miami and Erie Canal.

Governor to  
appoint com-  
missioners.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the governor be and is hereby authorized and required to appoint, by and with the advice and consent of the Senate, three commissioners, resident freeholders in the vicinity of the improvement herein provided for, who shall be charged with the duties and clothed with the powers hereinafter enumerated.



**SEC. 2.** The said board of commissioners, upon being appointed, and executing to the acceptance of the governor a bond to the state of Ohio in the sum of ten thousand dollars, conditioned to the faithful discharge of their duties and disbursement of the money to them entrusted, is and shall be authorized and required to give at least thirty days' notice, in some newspaper having general circulation, of the work to be done, and shall let the same to the lowest responsible bidder, and at the earliest practicable time to cause the excavation and removal of the rock and other obstructions of the Maumee river in the slack-water at Providence, Lucas county, on the northern division of the Miami and Erie canal, to a depth sufficient to pass boats at all times drawing three feet of water, and excavate a channel not less than forty feet in width, and extending up the river from the entrance or head of the canal, above lock number nine, as far as said rock and other obstructions exist, not exceeding one-half mile. Said channel to be excavated as near to the towing path as practicable; and the rock taken from said channel shall be sold to the best advantage by the said commissioners, and the proceeds applied to the payment of the expense incurred in removing said rock and other obstructions.

Powers and duties of said commissioners.

**SEC. 3.** In the discharge of the duties devolved upon said commissioners by this act, they shall be governed, as far as the same are applicable, by the provisions of an act conferring certain powers on and prescribing certain duties of the board of public works, passed April 4, 1859, and they may also, if for any cause deemed expedient or necessary, employ a competent engineer to superintend the work herein described, at a rate of compensation not exceeding that of the regular engineer employed by the board of public works.

Rules of government of commissioners.

**SEC. 4.** To carry into effect the provisions of this act, there is hereby appropriated from the general revenue fund, to be expended under and upon the warrant of the said board of commissioners, a sum not exceeding seven thousand dollars, the same to be refunded to the general revenue from the proceeds of the public works as rapidly as the same may become available for that purpose.

Appropriation.

**SEC. 5.** The said board of commissioners shall, in the prosecution of said work, be clothed with all the powers and authority to do and procure to be done all things authorized by the said act referred to in section three of this act, which the board of public works might do or procure to be done if charged and clothed by this act with the duties and powers herein devolved on the said board of commissioners.

Commissioners vested with power of board of public works.

**SEC. 6.** The board of commissioners shall not be allowed to charge nor shall they receive any compensation for their services.

No compensation for services.

**SEC. 7.** This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed Feb. 21, 1873.

## AN ACT

To authorize the vacation and sale of a portion of the Hocking Canal.

Authority to  
sell and  
transfer a  
portion of  
Hocking  
canal.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the board of public works be and they are hereby authorized and empowered to sell and transfer, upon such terms as they may deem best for the interests of the state, that part of the Hocking canal extending from its terminus in the town of Athens to the Hocking river, to such party or parties as shall make application therefor for the purpose of filling up, using and occupying the same for a road way or other like public purposes.

Consent of  
lessees  
requisite.

SEC. 2. That before such transfer is made, the written consent thereto of the lessees of the public works shall be filed with said board, but such transfer shall not release said lessees from any of their duties, responsibilities or liabilities, under their contract for the lease of the public works, except so far as relates to the canal so transferred, as to which such transfer shall operate as a full release to said lessees from further responsibility or liability.

Responsibil-  
ity of pur-  
chasers.

SEC. 3. That the purchaser or purchasers of said canal, shall be responsible for any and all claims or damages that may occur by reason of the transfer, vacation and use of said canal for the purposes aforesaid, and shall also agree to remove the state dam near the mouth of said canal, so as to do away with the slack-water in said Hocking river, at that place, and shall deposit with the board of public works a good and sufficient bond in the penal sum of \$50,000, indemnifying the state from all such claims and damages, and for the fulfillment of their said agreement to remove said dam; whereupon the governor shall execute and deliver to said purchaser or purchasers, a grant for said canal for the purposes aforesaid, and all persons except said lessees suffering any injury or loss by reason of such sale and transfer and filling up of said canal, for which they would have a right to recover against the state, did the right to sue the state exist, shall have a right of action on said bond on account of such loss or injury against said transferee or transferees and sureties.

Governor to  
execute  
grant, &c.

SEC. 4. This act to take effect from and after its passage.

CHAS. H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed March 6, 1873.

# LOCAL AND SPECIAL ACTS.

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## AN ACT

To provide for locating, establishing and constructing Ditches and Drains, above, through and below the Scioto Marsh, in Hardin county.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the county commissioners of Hardin county shall have power, at any regular or called session, whenever, in their opinion, the same is demanded by, or will be conducive to the public health, convenience or welfare, upon petition therefor, signed by five or more persons owning lands in or adjacent to said marsh, to cause to be located, established and constructed, as hereinafter provided, such main and lateral ditches and drains in and through and above and below said Scioto marsh, and to deepen, straighten and clean out the channel of the Scioto river, above, through and below said marsh, so as to effect the thorough drainage thereof.

SEC. 2. That upon the filing of the petition, mentioned in the first section of this act, with the auditor of said county, said auditor shall notify the county commissioners of the filing of the same, and said commissioners shall, within ten days after receiving said notice, meet at the auditor's office, and fix a time and place for the hearing of such petition. And thereupon the said auditor shall cause a notice of the time and place so fixed by the commissioners to be published in one or more newspapers published in and of general circulation in said county, for four consecutive weeks.

SEC. 3. Said county commissioners shall meet at the time and place so fixed for the hearing of said petition; and if it shall appear to them, upon the hearing of said petition, that the drainage of said marsh will conduce to the public health, convenience and welfare, and that the same is practicable, they shall direct the county surveyor, or in case of a vacancy in the office of county surveyor, they shall appoint some competent surveyor and engineer to make a survey and level of said marsh, and of said Scioto river, above, through and below said marsh.

SEC. 4. That it shall be the duty of said surveyor and engineer, upon receiving such direction or appointment, within such time as said commissioners may direct, to take to his aid the necessary assistants, and proceed to make an accurate survey and level of said marsh, and of so much of said river as may be necessary above and below said marsh, and locate through, above and below said marsh, such main and lateral ditches, on such routes and of such dimensions as, in his opinion, will be sufficient to effect the thorough drainage of said marsh. And it shall be the duty of such surveyor and engineer, upon the completion of such survey and level, to make and return a report, plat, profile and specifications of the same to the auditor of said county; and said surveyor shall set forth in

his said return definite descriptions of the routes, their availability and necessity, with a description of each tract of land through or in the vicinity of which such ditches and drains may be located, how it will be affected by said ditches, or any of them, the distance on each land owner, the approximate quantity of land, in acres, which will be benefited by such drainage, the length, width and depth of each, and all of such main and lateral ditches, so surveyed and located by him, the number of cubic yards of excavation in each and all of such ditches, fix a grade line, specify the manner in which said work should be done. And said surveyor shall also include in his return an accurate survey, level and profile of so much of the channel, and the lands binding thereon, of said Scioto river, above and below said marsh, as it may be necessary to deepen, widen or straighten, together with a plan, profile and specifications, showing the kind and quantity of work to be done, and the manner of doing the same, to effect the complete drainage of said marsh, and also such other facts and suggestions as he may deem material.

SEC. 5. It shall be the duty of said county auditor, upon the filing of said report, survey, plats and specifications, to cause notice thereof to be published in a newspaper, published in and of general circulation in said county, for four consecutive weeks, which notice shall state the time and place when and where the said county commissioners will meet to examine and consider said report, survey, plats and specifications. And it shall be the duty of said commissioners to meet at the time and place mentioned in said notice (with power to adjourn from time to time), and proceed to hear and consider said report, plats, profile, plans and specifications so made and filed by said surveyor and engineer. And said commissioners shall, at the same time, hear any and all persons, owning land in or adjacent to said marsh, or which will be in any manner affected by such drainage, in person or by attorney, for and against the establishment of any or all of such ditches and drains so located by said surveyor and engineer. And said commissioners shall have power, after such hearing (and view of the premises, if they shall deem the same necessary), to establish said ditches and drains, so reported by said surveyor and engineer, or any part of them, if, in their opinion, the same is practicable, and will conduce to the public health, convenience and welfare. And said board of commissioners, with the advice and consent of the surveyor and engineer, shall have power to change the location and dimensions of such ditches, or any of them, at any time they may deem such change necessary. And if said commissioners shall establish said ditches and drains, or any portion of them, they shall, with the assistance of the said surveyor, proceed to divide said work into suitable sections or divisions, of not less than one-fourth of a mile in length, numbering such sections progressively up stream, marking the boundaries thereof, specifying particularly the kind and quantity of work to be done on each section, and the time within which the same shall be performed. And if any application or applications for lands appropriated or damages claimed, shall have been filed with the auditor, as hereinafter provided, then the commissioners shall hear such applications, and if the said applicant or applicants and the said commissioners shall fail to agree as to the amount to be paid said applicant or applicants for lands appropriated or damages sustained by the construction of said ditches or drains, then it shall be the duty of the auditor to deliver to the probate judge of said county a certified copy of such application, together with a description of the property sought to be appropriated or injured, as shown by the return of said surveyor and engineer; and the probate

judge shall forthwith docket the same, styling the applicants plaintiffs and the county commissioners defendants; and thereupon such proceedings shall be had in said probate court to determine the amount of compensation and damages, if any, to be paid to such applicant or applicants as are authorized and required by the act entitled "An act to provide for compensation and damages to the owner or owners of private property appropriated to the use of corporations, or the good and welfare of the public," passed April 30, 1852, and the acts amendatory thereof and supplementary thereto; Provided, that if such applicant or applicants shall fail in such proceedings to establish his, her or their right to recover a greater amount of compensation or damages than was offered to such applicant or applicants by said county commissioners, then such applicant or applicants shall pay all fees and costs incident to such proceedings, and the probate judge shall have power to render judgment and to issue execution therefor. Upon conclusion of such proceedings in the probate court, it shall be the duty of the probate judge to certify to the auditor the amount of compensation and damages, if any, found in favor of such applicant or applicants, and the said auditor shall issue his order on the county treasurer to the applicant or applicants for the amount so found for them respectively, which order shall be paid by the said treasurer out of the county funds.

SEC. 6. Any person or persons claiming compensation for lands appropriated, or damages sustained by the location and construction of said ditches or drains, or any of them, or by the widening, deepening or straightening of the channel of said river under the provisions of this act, shall make application in writing therefor to the said county commissioners, and file the same with the county auditor on or before the day set for the hearing of the report of said surveyor and engineer, and on failure to file such application, shall be deemed and held to have waived all right to such compensation and damages: Provided, that the filing of such application shall not operate to hinder the progress of other portions of such work not directly affecting the property or rights of such claimants.

SEC. 7. That upon the establishment of such ditches and drains (or the deepening, widening or straightening of the channel of said Scioto river), or any portion thereof by said county commissioners, the county auditor shall cause public notice to be given of the time and place of letting such work, and the time fixed by the commissioners for the completion of each section or portion thereof, by publication in some newspaper or newspapers of general circulation in said county; and said notice shall refer to the plans and specifications on file in the auditor's office for a description of the kind and quantity of such work. And at the time and place specified in such notice, said auditor shall let the work on said several sections at public outcry, separately, to the lowest responsible bidder therefor; and said auditor shall at the time and in like manner offer the whole of said work to the lowest responsible bidder therefor, and said auditor shall, at the same time, and in like manner, offer the whole of said work to the lowest responsible bidder therefor; and thereupon said commissioners may award the contract for the performance of said work to the lowest bidder or bidders for said sections separately, or they may award the same to the lowest bidder or bidders for the whole thereof, as in their judgment they may deem most advantageous: Provided, that the said commissioners shall have the right, if in their opinion the bids are too high, to reject any or all of them; and provided further, that if for any cause said work or any portion thereof shall not be let at said time, then

the same may be let at any future time upon giving the like notice hereinbefore provided. The said county commissioners shall require the person or persons to whom said contract or contracts shall have been awarded, to enter into bonds, payable to said county, in such sum as they shall deem sufficient, and with sureties to their acceptance conditioned for the faithful performance of the said contracts; and the person or persons taking such work shall, on completion thereof according to the plans, profiles and specifications, be paid therefor out of the county treasury upon the warrant of the county auditor; provided, that if any person or persons to whom said work, or any part thereof, shall be let as aforesaid, shall fail to perform said work, the same shall be re-let by the county commissioners in the manner hereinbefore provided for letting said work.

SEC. 8. The said commissioners of said county shall make an equitable apportionment of the costs, expenses, fees and compensation for property appropriated and damages which have been allowed or assessed under the provisions of this act, among the several owners of lands which will be benefited by the location and construction of such ditches and drains and the deepening, widening and straightening of said river, in proportion to the benefit resulting therefrom to them respectively. And the same shall be levied on the lands of the owners so benefited in said proportions, and collected in the same manner as other taxes are collected for county purposes. And the said commissioners shall make a like equitable apportionment of the costs of the construction of such proposed ditches and drains, which shall be levied by the county auditor upon the lands of owners benefited by the construction of such ditches and drains in proportion to the benefit to them respectively, by entering upon the tax duplicate of said county the proportions fixed and determined by the county commissioners in installments, running for four years, as follows: The first installment in the year next preceding the commencement of the construction of such work; the second installment in the year next following the first; the third in the year next following the second; and the fourth in the year next following the third: Provided, that if for any reason no work be done on said ditches, or the deepening, widening or straightening said river in any year or years, then the levying of the installment for said year shall be postponed until the next year or years in which the construction of such work shall be begun or continued, and such taxes shall be collected in the same manner and at the same time as other taxes; provided further, that if from any cause it shall happen that the said taxes shall not be needed for the purpose of paying for work done on said ditches, drains, or said river, after the same is placed on the tax duplicate of any year or years, the said commissioners shall have power and it shall be their duty to direct the county treasurer not to enforce the payment thereof until such time as the same shall be needed for the payment for such work, and said taxes when so assessed and levied as aforesaid shall be denominated upon the book of said auditor and treasurer's offices as The Scioto Marsh Draining Fund.

SEC. 9. That all the costs of location, expenses, costs of construction, fees and compensation for property appropriated and damages which shall accrue or be assessed under the provisions of this act, shall be paid out of the county treasury upon the order of the county auditor; provided, that no part of the same, except the compensation for property appropriated, and the fees of the surveyor and engineer and his assistants, auditor, commissioners and probate judge, shall be paid out of the county treasury until the same shall have been levied and collected as provided in section eight of this act.

**SEC. 10.** That said work shall be performed under the direction and supervision of said surveyor and engineer, and upon the completion thereof, or of any section or portion thereof, to the satisfaction of said surveyor and county commissioners, the said surveyor shall give to the person or persons entitled thereto a certificate, specifying therein the kind and quantity of work done, upon what portion or section, and the amount of money due him or them for the same. Upon the presentation of such certificate by the holder thereof to the county auditor it shall be the duty of said auditor to issue such holder an order on the county treasury, payable out of the said Scioto Marsh draining fund.

**SEC. 11.** That said county commissioners shall have power, and it is hereby made their duty, upon the filing of a petition signed by ten or more persons owning lands affected by said drainage, showing that all or any portion of said ditches or drains need repairing or cleaning out, to direct the county surveyor to proceed to make an examination of such ditches and drains, and report to said county commissioners what kind and amount of work, if any, is required to be done on said ditches and drains, or any part thereof, to put the same in good repair, and upon the filing of such report in the office of the county auditor, it shall be the duty of said county auditor and commissioners to let the work of making such repairs to the lowest responsible bidder, after having given notice of the time and place of such letting, and the kind and quantity of such work, in the same manner as is hereinbefore provided for the letting of work on said ditches and drains, and shall therefore make an equitable apportionment of the costs and expenses of making such repairs, including the surveyor's, auditor's and commissioners' fees, on the lands benefited thereby; and the amount so apportioned shall be placed on the tax duplicated, collected and paid out in the same manner as is hereinbefore provided for the levying, collecting and paying of the costs and expenses of the location and construction of said ditches and drains.

**SEC. 12.** It shall be the duty of the township trustees of the township of Marion in said county to provide, by taxation on all the taxable property of said township, for the payment of such sum or sums as shall be apportioned to and levied on school section No. 16, situated in said township, under the provisions of this act.

**SEC. 13.** The county commissioners, auditor, treasurer, probate judge, printer and surveyor shall be allowed the same fees for services rendered under the provisions of this act as are allowed by law for like services in other cases; and, for all other services rendered and expenses incurred in carrying out the provisions of this act, such payment shall be made as to said commissioners shall seem reasonable and just; provided, however, that any person or persons claiming pay for services rendered or money expended under the provisions of this act, shall present his or their claim therefor in writing to the county commissioners, specifying each item separately, and no such claim shall be paid until the same shall have been approved by said commissioners; provided further, that no claim shall be paid except on the order of the county auditor.

**SEC. 14.** It shall not be lawful for said county commissioners to use or appropriate the funds levied and collected under the provisions of this act, or any part thereof, for any other purpose whatever.

**SEC. 15.** It shall be the duty of the county auditor to receive, file and carefully preserve in his office all papers having any relation to the subject matter of this act, or the proceedings had under the provisions thereof, and the same shall be kept separate from all other papers in said office;

and the said auditor shall also keep a full and complete record of all proceedings had under the provisions of this act.

SEC. 16. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed January 6, 1873.

### AN ACT

To authorize the trustees of Brown township, Paulding county, Ohio, to levy a tax for bridge purposes, and to borrow money.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of Brown township, Paulding county, be and they are hereby authorized to levy a tax of seven hundred dollars on the taxable property within the limits of said township, to aid in the building of a bridge across the Little Auglaize river, where the state road leading from Defiance to Delphos crosses said river, near its junction with the Big Auglaize river, in said township, and said trustees shall certify the amount so levied, not exceeding seven hundred dollars, to the county auditor, who shall place the same on the tax duplicate for said township, to be collected as other taxes, and paid to the proper township officers, to be expended for the purposes for which it was levied, and no other.

SEC. 2. To enable said trustees to commence and prosecute said work at an early date, they are hereby authorized and empowered to anticipate the collection of said fund, by issuing their bonds for the amount of seven hundred dollars, in denominations of not more than one hundred dollars each, payable at any time not less than one nor more than four years from date; said bonds to bear a rate of interest not exceeding eight per cent. per annum, and not to be sold for less than their par value, and to be signed by the trustees, countersigned by the clerk, and indorsed by the township treasurer.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 JACOB MUELLER,  
*President of the Senate.*

Passed January 29, 1873.

### AN ACT

To authorize the commissioners of Coshocton county to build a court-house.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Coshocton county are hereby authorized to construct a court-house, at such point at the county seat of said county as in their judgment may be deemed most for the public good, at a cost not to exceed one hundred thousand dollars.



SEC. 2. That the commissioners of said county, for the purpose of building said court-house, are hereby authorized to borrow such sum or sums of money as they shall deem necessary, at a rate of interest not to exceed eight per cent. per annum, and issue the bonds of said county to secure the payment of the principal and interest thereon; such interest shall be paid semi-annually, at the county treasury; and the principal shall be paid at such treasury, at such times as the commissioners may prescribe, within seven years from the date of said indebtedness; said bonds to be sold for not less than their par value.

SEC. 3. That the bonds so issued shall be signed by the commissioners, or any two of them, and countersigned by the auditor, with or without coupons attached, in sums of not less than fifty nor more than one thousand dollars each, payable to the bearer, at the county treasury, with interest as aforesaid, at such times, not exceeding seven years after date, as the commissioners may prescribe, and such bonds shall specify distinctly the object for which they were issued.

SEC. 4. The commissioners shall, annually, at their June session, levy such amount of taxes as will pay the interest on such indebtedness, and at least one-seventh of the principal.

SEC. 5. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed January 29, 1873.

## AN ACT

To authorize the board of education of the incorporated village of Wapakoneta, in the county of Auglaize, to borrow money and issue bonds to build a school-house, or additions to the school-house in said village.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of the incorporated village of Wapakoneta and territory thereto annexed for school purposes, in the county of Auglaize, be and they are hereby authorized to build a school-house in said village, or build additions to the school-house now therein, as in their judgment may be deemed most for the public good, at a cost not exceeding eighteen thousand dollars.

SEC. 2. That said board of education shall have power to issue bonds of said village and territory thereto annexed for school purposes, in sums not less than one hundred dollars each, bearing interest at a rate not exceeding eight per cent. per annum, payable annually, which said bonds shall be made payable in one, two, three, four, five, six, seven, eight, nine and ten years, in such proportion as said board may deem for the best interest of said district: Provided, said bonds shall not be disposed of for less than their par value; said bonds be signed by the president of said board, and countersigned by the secretary, who shall keep a record of the same.

SEC. 3. That said board of education is hereby authorized whenever it shall in their opinion become necessary to levy a tax to pay said bonds or the interest thereon, to certify that fact to the auditor of Auglaize county, and said auditor shall cause such sum, so certified by said board to be necessary, to be levied upon the taxable property of said village and the territory thereto annexed for school purposes, and the same shall be collected as other school taxes are or may be, and paid to the treasurer or other proper officer of said board; provided, that the proceeds arising from the sale of the bonds herein provided shall be expended upon a building or buildings on the premises now owned by the village of Wapakoneta aforesaid, for school purposes, or upon such premises only as are adjoining or contiguous thereto, as the said board of education may acquire.

SEC. 4. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed February 1, 1873.

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## AN ACT

To provide for the erection of a jail in Union county.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the county commissioners of Union county, Ohio, be and they are hereby authorized to build a jail in the village of Marysville in said county, on such lot or lots as may be deemed most advisable by the commissioners of said county.

SEC. 2. That the commissioners of said county of Union are hereby authorized to borrow money to build said jail, and to issue bonds to secure the payment thereof, in such sums as they may deem proper, not exceeding twenty thousand dollars, and due or payable at such time or times as said commissioners may deem most advantageous to said county, not exceeding ten years from the date thereof.

Said bonds shall bear a rate of interest not exceeding eight per cent. per annum, and payable semi-annually.

Said bonds and the interest thereon shall be made payable at the office of the treasurer of said county.

SEC. 3. This act shall be in force from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed February 4, 1873.

## AN ACT

To authorize the commissioners of Franklin county to build a bridge across Indian Run, near the village of Dublin, in said county, and to levy a tax for that purpose.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Franklin county be and they are hereby authorized to locate and build a bridge across Indian Run, on a line with the main street running north and south near the union school building in the village of Dublin, in Washington township, in said county, and to levy a tax for that purpose not exceeding three-eighths of one mill on the dollar of all the taxable property of said county for the year 1873, in addition to the other levies authorized by law.

SEC. 2. That in case there shall be any fund in the treasury of said county that has been levied and collected for a special purpose, and such fund or a part thereof will not be needed for such purpose until after the time fixed by law for the collection of the tax authorized by the first section of this act, the said commissioners shall have power to transfer such special fund, or such part thereof as may be needed for the purposes named in this act, temporarily to said purposes, and re-imburse such fund so taken out of the taxes herein authorized to be levied, as soon as the same shall be collected.

SEC. 3. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed February 4, 1873.

## AN ACT

To authorize the Trustees of the Lutheran Cemetery Association, in Hamilton township, Franklin county, Ohio, to sell a portion of said cemetery grounds for the erection of a church thereon.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of the Lutheran cemetery association in Hamilton township, Franklin county, Ohio, be authorized to sell and convey by deed a parcel of ground situate on the north-east side of said cemetery grounds, in Hamilton township, Franklin county, Ohio, for the purpose of erecting a church edifice thereon: Provided, that the proceeds of such sale shall be used for the benefit of the cemetery.

SEC. 2. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed February 4, 1873.

## AN ACT

To authorize the board of education of the incorporated village of Washington, Guernsey county, Ohio, to issue bonds to obtain money to pay the existing debt of said school district incurred in the erection of a school building, and levy a tax to pay said bonds.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of the school district of Washington, Guernsey county, Ohio, and the territory annexed thereto for school purposes, be and they are hereby authorized to issue bonds not exceeding in amount two thousand dollars, to raise money to pay an existing debt, incurred in the erection and construction of a school building in said school district, said bonds to be signed by the president and secretary or clerk of said board of education, and to be in sums of not less than fifty dollars nor more than five hundred dollars each, bearing interest at a rate not exceeding eight per cent. per annum, the principal and interest of said bonds to be payable as said board of education may direct, not exceeding three years from the time of issuing the same: Provided, the said bonds shall not be sold for less than their par value.

SEC. 2. That for the purpose of paying said bonds and the interest thereon, as the same may become due, the said board of education is hereby authorized and empowered to levy a tax on the taxable property of said school district of Washington, Guernsey county, Ohio, and the territory annexed thereto for school purposes, in such amounts, annually, commencing in the year 1873, as will be sufficient to pay the principal and interest of said bonds as they may become due in each year, as said board of education shall determine, and the money so raised shall not be used for any other purpose than to pay said bonds or debt and interest thereon.

SEC. 3. This act shall take effect on its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed February 6, 1873.

## AN ACT

To authorize the Board of Education of the village of Galion to borrow money and levy tax to relieve said Board from indebtedness contracted in building and furnishing a school-house.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That to enable the board of education of the village of Galion in the county of Crawford, to pay all indebtedness contracted by said board of education in the erection and furnishing of a school-house in said village, said board be and they are hereby authorized to issue their bonds, signed by the president and secretary of said board, in sums of not less than fifty nor more than five hundred dollars each, bearing interest at a rate not

exceeding eight per cent. per annum, payable semi-annually, for an amount not exceeding in the aggregate the sum of twenty-five thousand dollars, and payable at any time not exceeding ten years from the time of issuing the same, at the discretion of said board: Provided, said bonds shall not be sold at less than their par value.

SEC. 2. That for the purpose of paying said bonds, and interest thereon as the same shall become due, the said board of education are hereby authorized and empowered to levy on the taxable property of the incorporated village of Galion and the territory thereto annexed for school purposes, such an amount annually as will be sufficient to pay the principal of the debt that shall fall due each year, and also the interest falling due annually on all the bonds so issued, and the money so raised shall not be used for any other purpose.

SEC. 3. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed February 6, 1873.

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### AN ACT

To require the county auditor of Madison county to apportion unexpended assessments for road improvements among the persons assessed for the same.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the county auditor of Madison county be required to apportion the balance of assessments made for the construction and improvement of what is known as the Harrison road improvement, remaining in the county treasury of said county, ratably among the persons who paid such assessments, in excess of the amount required to construct said road; and on demand of any such person, his heirs or legal representatives, to draw an order in his favor on the county treasurer for the amount so found due him.

SEC. 2. This act shall take effect upon its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed February 7, 1873.

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### AN ACT

To authorize the board of education of Windsor township, Lawrence county, to levy a tax to pay the indebtedness of said township incurred in the erection of school-houses.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of Windsor township, county of Lawrence,

in addition to the other powers of taxation heretofore conferred by law, be and hereby are authorized and empowered to assess on the grand levy of the taxable property of said township for the years 1873 and 1874, a tax not exceeding four mills on the dollar, to be applied only in liquidating the present indebtedness of said school board incurred in the erection of school houses in said township.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed February 7, 1873.

### AN ACT

To authorize the board of education of Jefferson township, Ross county, to issue bonds and levy a tax to complete a school-house.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of Jefferson township, Ross county, be and they are hereby authorized to issue bonds to an amount not to exceed four thousand dollars, to raise money to complete a school-house; said bonds to be signed by the president and clerk of said board of education, and to be in sums of not less than one hundred nor greater than five hundred dollars each, bearing interest at a rate not to exceed eight per cent. per annum, said interest payable annually, and the principal to be paid at any time, not exceeding three years from the time of issuing the same; said bonds shall not be sold for less than their par value.

SEC. 2. That for the purpose of paying the principal of and interest upon said bonds, said board of education is hereby authorized to levy, annually (in excess of the amount now authorized by law), for the years 1873, 1874 and 1875, upon all the property of said township, a tax sufficient to raise in the aggregate the sum of five thousand dollars; and said board of education shall certify the tax so levied to the auditor of Ross county, who shall place the same on the duplicate, to be collected annually as other taxes are collected, and paid to the treasurer of Jefferson township, to be expended for the purpose for which they were levied, and no other.

SEC. 3. That this act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed February 7, 1873.

## AN ACT

To authorize the commissioners of Ross and Pickaway counties to build a bridge across the Scioto river, and to levy a tax for that purpose.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Ross and Pickaway counties be and they are hereby authorized to locate and build a free bridge across the Scioto river at or near the line between said counties, and to levy a tax for that purpose not exceeding three-quarters of one mill on the dollar of all the taxable property of said counties, in each year, for not more than two years, in addition to the other levies authorized by law.

SEC. 2. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed February 14, 1873.

## AN ACT

To refund money erroneously assessed on certain persons in Guernsey county to build a turnpike.

WHEREAS, That in building a short piece of turnpike, only a few hundred yards long, to connect a turnpike in Millwood township, Guernsey county, with a turnpike in Noble county, an error crept into the percentage sheet, which made the levy for said purpose \$794.63 more than was intended; and,

WHEREAS, The estimate made for said purpose was \$960.00, but the building of said road only cost the sum of \$710.00, leaving a balance of \$250.00 of the estimate not consumed in said work, thereby leaving in the treasury of the county the unexpended sum of one thousand and forty-four dollars and sixty-three cents (\$1,044.63,) not needed for the purpose for which it was intended; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Guernsey county be and they are hereby authorized to order the auditor of said county to draw his warrant on the treasurer thereof in favor of the persons who paid the tax, for their *pro rata* share of the unexpended balance thereof so remaining in the treasury of said county.

SEC. 2. This act shall take effect from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed February 15, 1873.

## AN ACT

To authorize the board of education of Green township, county of Adams, to levy a special tax to pay an existing indebtedness, incurred in purchasing school-house sites, building school-houses and procuring school apparatus.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of Green township, Adams county, are hereby authorized to levy, in the years 1873 and 1874, upon all the taxable property in said township, a tax, not to exceed two thousand dollars, for the purpose of paying the indebtedness incurred in purchasing school-house sites, building school-houses and procuring school apparatus, and upon making such levy or levies, the said board of education shall certify the same to the auditor of said county, who shall place the same upon the tax duplicate of said township, and the same shall be collected and paid to the treasurer of said Green township, as other school funds.

SEC. 2. That if any money of said special levy remain after paying said indebtedness, said remainder shall be added to the tuition fund of said township and be apportioned among the several sub-districts, as other township tuition funds.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed February 15, 1873.

## AN ACT

To authorize the School Board of the city of Springfield, county of Clarke, Ohio, to borrow money for the maintenance of the schools in said school district.

WHEREAS, By the defalcation of Theodore A. Wick, late treasurer of Clarke county, Ohio, the funds arising from taxation for the maintenance and support of the public schools of the city of Springfield in said county, were illegally applied by said Wick, thereby rendering it impossible for the school board of said city of Springfield to maintain the schools of said district; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of the city of Springfield, county of Clarke, Ohio, be and it is hereby authorized and empowered, for the purpose of maintaining the schools in said school district, to borrow any sum of money not exceeding twenty thousand dollars, for a term not exceeding five years, and at a rate of interest not exceeding eight per cent. per annum, payable semi-annually; and said board may issue its bonds for the payment of the money so borrowed, payable in equal annual payments, from one to five years inclusive; Provided, that said bonds shall not be sold for less than their par value.



SEC. 2. That said board of education is hereby authorized and required to pay said bonds at maturity from the taxes which shall be levied and collected on the property in said district as provided by law.

SEC. 3. This act shall take effect from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed February 15, 1873.

## AN ACT

To authorize the Commissioners of Tuscarawas county to issue bonds to rebuild a part of a bridge across the Tuscarawas river.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Tuscarawas county be and they are hereby authorized to rebuild the north half or span of the bridge across the Tuscarawas river, near the village of New Comerstown in said county. The said span of the bridge shall be constructed of iron, in a good substantial manner, and of sufficient width to admit teams to pass thereon.

SEC. 2. That for the purpose of rebuilding the said span of bridge, the commissioners of said county be and are hereby authorized to issue the bonds of said county for a sum not exceeding four thousand dollars, payable at any time within two years from their date, and at a rate of interest not exceeding eight per cent. per annum.

SEC. 3. This act to take effect and be in force from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
 ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed February 15, 1873.

## AN ACT

For the relief of certain tax-payers of Sub-school district No. 1, in Dover township, Cuyahoga county, Ohio.

WHEREAS, The board of education of Dover township, Cuyahoga county, Ohio, in the year 1868, certified a special tax upon sub-school district No. 1, in said township, to pay for the erection of a school house within said sub-district, which tax was levied upon said sub-district, and sundry tax-payers of said sub-district paid their portion of said special tax, after which payment said special tax was found to be illegal, and its collection was restrained by the court; and

WHEREAS, Said school house has been built in said sub-district, and has been paid for out of a tax duly levied upon said township of Dover; and

WHEREAS, So much of the special tax so illegally levied, that was paid, is now in the hands of the treasurer of Dover township, and there

is no mode provided by law in which said illegal special tax so paid can be refunded to the persons who have paid the same; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of Dover township, Cuyahoga county, Ohio, is hereby authorized to ascertain from the auditor of their county the amount of such illegal special tax to erect a school house in sub-district No. 1, in said township, that is in the hands of the treasurer of their township, paid by the tax-payers of said sub-district, the names of the persons who have paid the same, and the amount paid by each, and to direct their clerk to draw orders upon the treasurer of said township in favor of such persons respectively, for the amounts of such illegal special tax so by such persons paid, and the treasurer of said townships shall, upon presentation of such orders by the proper persons, their heirs or assigns, refund out of the amount of such illegal tax received by him as such treasurer, the amounts named in such orders.

SEC. 2. This act shall take effect upon its passage.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed February 15, 1873.

## AN ACT

For the relief of the County Commissioners of the County of Scioto, and to authorize said Commissioners to purchase toll roads.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the county commissioners of Scioto county be and they are hereby authorized to appropriate, out of the bonds issued and to be issued by said commissioners for free turnpike purposes, under the act entitled "An act supplemental to an act entitled an act to authorize the location and construction by the county commissioners of Scioto county of free turnpikes and plank roads," passed April 5th, 1866, passed April 19th, 1872, so much and such portion of said bonds or the proceeds thereof as may be necessary to discharge any and all outstanding indebtedness of said county incurred for free turnpike purposes prior to December 9th, 1872, excepting so much of said indebtedness as may have been provided for under the levy for free turnpike purposes in said county for the year 1872; and the residue of said bonds or the proceeds thereof shall be applied by said commissioners in the completion of free turnpikes located prior to and since the passage of said supplemental act of April 19th, 1872, and in the construction of such as may be hereafter located by them, except so much of said bonds as may be set apart by them for the purpose of purchasing toll roads, as provided in the second section of this act.

SEC. 2. The county commissioners of said county of Scioto are hereby authorized to purchase, with any bonds or the proceeds thereof authorized to be issued by them for the construction of free turnpikes, that portion of any toll road located within the limits of said county, or to purchase the stock of such corporate turnpike company; to receive donations of such stock from the owners thereof, and to surrender the stock held by said county in said company; and upon the transfer of said road for the

uses and benefit of said county, the commissioners shall make and declare the same a free road. Said turnpike road shall thereafter be maintained and kept in repair in the same manner as the other free turnpikes of said county are maintained and repaired. And any corporate turnpike company owning such toll road lying within said county, or the owners of a majority of the stock thereof, are hereby authorized to sell or donate and transfer that portion of its road lying within the county of Scioto to the commissioners of said county, for the purposes aforesaid.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed February 18, 1873.

## AN ACT

To amend an act supplementary to an act entitled an act to authorize the trustees of Litchfield township, Medina county, to borrow money for building a town hall. (O. L., vol. 68, page 189; O. L., vol. 69, page 210.)

WHEREAS, The trustees of Litchfield township, Medina county, Ohio, have proceeded in accordance with the act to which this is supplementary (O. L., vol. 68, p. 189) to borrow money and erect a town hall, which town hall is not yet completed; and

WHEREAS, It will be a saving and convenience to the people of said township to furnish and prepare the basement room of said hall for school purposes, which can be done at a cost of five hundred (\$500) dollars in addition to that heretofore authorized to be levied; therefore

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That said trustees of the township of Litchfield, Medina county, be and they are hereby authorized to borrow the sum of five hundred (\$500) dollars in addition to that heretofore authorized and issue the bonds of the township therefor, in the manner and on the terms provided in said original act, and to prepare and use the basement room of said hall for school purposes; provided, that the county treasurer of said county of Medina shall not hereafter pay over to the treasurer of said township the moneys borrowed under the provisions of this and the acts to which this is supplementary, but shall disburse or pay out the same on the order of said township trustees of Litchfield township, attested by the township clerk.

SEC. 2. That the supplementary act entitled "An act to authorize the trustees of Litchfield township, Medina county, to borrow money for building a town hall," be and the same is hereby repealed.

SEC. 3. That this act shall take effect on its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed February 18, 1873.

## AN ACT

To enable the Board of Education of Huntington township, Ross county, to levy an additional tax to pay an existing indebtedness.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of Huntington township, Ross county, be and it is hereby authorized, for the purpose of paying an existing indebtedness, to levy, for the years eighteen hundred and seventy-three and eighteen hundred and seventy-four, upon all the taxable property of said township, a sum sufficient in the aggregate to raise the amount of twenty-five hundred dollars, which shall be in excess of the amount now authorized by law, and shall be applied to the extinguishment of said indebtedness.

SEC. 2. That for the purpose of anticipating said tax, the board of education is hereby authorized to borrow a sum which, with the interest thereon, shall not exceed the aggregate amount of such levy, and to issue bonds in such denominations and payable at such times within two years from the issue thereof, as said board may elect. Said bonds to be sold at their par value, and to bear a rate of interest not to exceed eight per cent. per annum.

SEC. 3. This act shall take effect and be in force after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed February 21, 1873.

## AN ACT

To authorize the commissioners of Hardin county to transfer certain funds in the Treasury of said county on the books of the county Auditor and Treasurer.

SECTION 1. *Be it enacted by the General assembly of the State of Ohio,* That the county commissioners of the county of Hardin be and they hereby are authorized to cause to be transferred permanently upon the books of the auditor and treasurer of said county, the sum of two thousand one hundred and thirty-four dollars and seventy seven cents (\$2,134.77) from the building fund, and the sum of one thousand and sixty-seven dollars and seventy-three cents (\$1,067.73) from the poor fund to the infirmity fund of said county.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed February 24, 1873.

## AN ACT

To authorize the commissioners of Warren county to build or aid in building a bridge across Horn's run, in said county.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Warren county be and they are hereby authorized in their discretion, to build or aid in building a bridge across Horn's run in said county, on the turupike road leading from Lebanon via Union Village to Monroe.

SEC. 2. This act shall take effect on its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed February 24, 1873.

## AN ACT

For the relief of Joseph Kieffer, Treasurer of Milton township, Wood county, Ohio.

WHEREAS, The dwelling-house of Joseph Kieffer, treasurer of Milton township, Wood county, Ohio, was burned on the 24th day of November, A. D. 1872, and the public money, amounting to two thousand dollars (\$2,000), belonging to said township, and in the custody of said Joseph Kieffer as treasurer aforesaid, was destroyed; and,

WHEREAS, The officers and tax-payers of said township, by their petition to this general assembly, represent that said fire was without any fault or neglect of said Joseph Kieffer; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of Milton township, Wood county, Ohio, be and they are hereby authorized to submit the question of releasing the said Joseph Kieffer from his liability on his said bond to the qualified electors of said township at the spring election of 1873, ten days previous notice having been given by posting up in three public places in said township, and if a majority of the electors voting at said election shall vote in favor of releasing the said Joseph Kieffer and his securities on his official bond as treasurer of said township, from the payment of said sum of two thousand dollars so burned as aforesaid, then the said Joseph Kieffer and his sureties shall not hereafter be held liable to make up said money to said township.

SEC. 2. The trustees of said township are hereby authorized, if in their opinion it be necessary, to levy a tax not exceeding the sum of two thousand dollars (\$2,000), to be applied to the same special fund and for the same purposes that the funds were to have been applied.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed February 26, 1873.

## AN ACT

To authorize the Commissioners of Miami county to levy a tax for the purpose of building an addition of the Miami County Infirmary.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Miami county are hereby authorized to levy an aggregate tax on the taxable property of the county as entered on the grand duplicate, not exceeding twenty thousand dollars, to be used for the purpose of building an addition to the county infirmary of said county: Provided, that such tax shall not be levied until the question as to the policy of building such addition shall have been submitted to the qualified voters of said county, which said submission shall be made at the annual spring election on the first Monday of April, A. D. 1873, and be conducted otherwise in accordance with the provisions of section three of an act prescribing the rate of taxation for county, bridge, road and township purposes, as passed May 1st, 1871.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed February 26, 1873.

## AN ACT

To authorize the trustees of Royalton township, Fulton county, Ohio, to levy a tax for certain purposes therein named.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of Royalton township, Fulton county, Ohio, be and they are hereby authorized to levy and assess a tax, the amount of which to be by them determined, and submit the same to a vote as herein provided, for the purpose of purchasing a hearse for the use of the township, and erecting a suitable building in which to keep the same.

The said hearse and building to be under the control of said trustees or some person by them appointed: Provided, that the trustees shall first submit the question of tax or no tax for the above named purpose to the qualified electors of the township at a general election, having given at least fifteen (15) days notice of the same in at least three public places in the township, which notice shall state the amount to be raised and for what purpose.

SEC. 2. The electors voting at said election shall have written or printed upon their ballots the words, "Tax for hearse and building—Yes," or "Tax for hearse and building—No;" and if a majority of all the electors voting at said election upon the question submitted shall vote "Tax—Yes," this act shall thereupon be considered to be adopted.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed February 27, 1873.

## AN ACT

To authorize the Commissioners of Lorain county to construct a Draw Bridge across Black River in said county.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Lorain county may, for the purpose of erecting a draw bridge across Black river, at or within one mile of the mouth thereof, upon obtaining the authority specified in section three of this act, issue the bonds of such county in such sum as may be authorized as herein provided, and in such denominations, payable at such times, having not more than five years to run, and bearing such rate of interest not exceeding eight per centum per annum, payable semi-annually at the treasury of said county, as they may deem proper, which shall not be sold for less than their par value. And said commissioners, in the event of issuing any such bonds, shall levy a tax upon all the taxable property of said county sufficient to pay the same at maturity, and the interest thereon as the same falls due.

SEC. 2. That on the petition of not less than one hundred citizens of said county for the erection of a bridge as aforesaid, at a point named in the petition, the commissioners of the county shall, at the expense of the county, cause a plan, specifications and estimates of a bridge, such as they may deem suitable to be erected at such point, to be made and filed in the auditor's office of the county, and thereupon they shall cause a notice to be published in each newspaper printed in said county for the period of thirty days before some general election in April or October, that a vote shall be taken thereat on the question of constructing such bridge. Said notice shall state the point at which said bridge is proposed to be erected and the estimated aggregate cost thereof, together with a statement of the rate of interest, and time to run of the bonds proposed to be issued on account of said bridge.

SEC. 3. That all persons voting at such election in favor of said bridge, shall have written or printed on their ballots the words "For Bridge," and those voting thereat against the same, the words "Against Bridge." Judges of election shall, within three days after such election, make returns, sealed up, of the number of votes cast thereat, in their several precincts, in favor of and also against said bridge. On the fourth day after such election, the county auditor and a justice of the peace shall open such returns, and if it appears that a majority of all the electors voting on said question, at such election, shall have voted in favor of the erection of such bridge, the authority to issue bonds as aforesaid to the amount and on the terms named in said notice, and not otherwise shall be deemed to be given: Provided, that in case a majority of the votes cast at such election shall be against the construction of said bridge, the said commissioners shall, on the petition of not less than one hundred citizens as aforesaid, previous to any general election in April or October, at intervals of not less than one year, proceed relative to the construction of said bridge according to the provisions of this act.

SEC. 4. In case authority be given as aforesaid for the construction of said bridge, the county commissioners shall proceed to contract for the construction of the same, being governed as to advertising for proposals

and letting, by the law in force pertaining to the erection of other bridges by county commissioners.

SEC. 5. This act shall take effect on its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed February 27, 1873.

## AN ACT

To provide for the erection of a jail in the county of Shelby.

WHEREAS, The county commissioners of said county of Shelby, about five years ago, purchased a lot on which to erect a county jail, paid for the same and levied taxes to the amount of ten thousand dollars for the erection of a jail, which taxes have been collected and the moneys arising from the same are now in the county treasury; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the county commissioners of said county of Shelby be and they are hereby authorized and empowered to raise, by a special tax on all taxable property in said county, by one or more annual levies, as said commissioners may determine, a sum not exceeding twenty-five thousand dollars, in addition to said sum as aforesaid collected for the purpose of building a jail on said lot so purchased by them or upon some other suitable lot to be procured by said commissioners.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed February 27, 1873.

## AN ACT

To authorize the Board of Education of Eagle township, Brown county, Ohio, to transfer certain funds.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of Eagle township, Brown county, Ohio, be and they are hereby authorized to transfer the building fund which has been levied in said township, to the tuition fund for common school purposes, and to be used by said board for school purposes as if the same had been levied for such purposes.

SEC. 2. This act shall take effect from its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed February 27, 1873.



## AN ACT

To authorize the Board of Education of Mechanicsburg, Champaign county, Union School District, to issue bonds and borrow money.

**SECTION 1.** *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of the Union school district of Mechanicsburg, Champaign county, Ohio, for the purpose of raising money to complete and finish the Union school building in said district, and paying off and discharging the existing indebtedness incurred on account thereof, be and they are hereby authorized and empowered to issue bonds not to exceed the sum of four thousand dollars, bearing a rate of interest not exceeding eight per cent. per annum, payable annually, and to be of such denomination as the said board shall determine, and due, and payable at such time or times as said board may deem most advantageous to said school district, not exceeding ten years from the date thereof, and shall not be sold for less than their par value.

**SEC. 2.** That for the purpose of paying the said bonds and the interest thereon, as the same shall become due, the said board of education are hereby authorized and empowered to levy on the taxable property of said Union school district of Mechanicsburg, Champaign county, such amount annually as will be sufficient to pay the principal of said bonds as they fall due, and, also, the interest falling due on said bonds, and the money so raised shall not be used for any other purpose than to pay said bonds and interest; and upon making such levy or levies the said board of education shall certify the same to the auditor of said county, who shall place the same upon the tax duplicate of said Union school district, and the same shall be collected and paid to the treasurer of said Union school district as other school funds.

**SEC. 3.** That this act shall take effect from and after its passage.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed March 6, 1873.

## AN ACT

Authorizing the County Commissioners of Lake County to build a County Infirmary and to issue bonds therefor.

**SECTION 1.** *Be it enacted by the General Assembly of the State of Ohio,* That the county commissioners of the county of Lake, be and they are hereby authorized to build a county infirmary, and for that purpose they are hereby authorized to issue the bonds of said county not exceeding in amount the sum of forty thousand dollars.

**SEC. 2.** Said bonds may be in denomination of not less than one hundred nor more than one thousand dollars, and payable with interest not exceeding eight per cent. per annum, payable semi annually, and at such

time or times as the said commissioners shall deem for the best interest of said county, but in no case more than ten years from the date thereof, and shall not be sold for less than their par value.

SEC. 3. For the purpose of paying the interest on said bonds and the principal of the same as they shall become due, there shall be annually levied a tax on the taxable property of said county.

SEC. 4. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed March 6, 1873.

## AN ACT

To authorize the trustees of the township of Hartsgrove, Ashtabula county, Ohio, to erect a Town Hall, and to sell or lease the second story of the same.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of said township be and they are hereby authorized to erect a two story town hall in said township, at a cost not exceeding two thousand dollars, and sell or lease the second story of the same, with the right to pass to and from the same, upon such terms and to such person or persons as to them may seem to be for the best interest of said township; and for the purpose of paying the expenses thereof and the interest on deferred payments, they are hereby authorized to levy and collect in each of the years 1873, 1874 and 1875, such amounts as they may think best, upon all the taxable property of said township as taxes for township purposes are now by law levied and collected, not exceeding in the aggregate the sum of two thousand dollars: Provided, that when said several parties shall agree upon the terms and conditions in regard to the sale or lease of said second story of said town hall, they shall reduce their said agreement to writing under the hands and seals of the trustees of said township, and by the person or persons with whom such agreement is made, and acknowledge the same before some competent person authorized by law to take acknowledgments; and when so executed and acknowledged, they shall cause the same to be entered of record in the recorder's office of said Ashtabula county, and the same thereafter shall be conclusive evidence of the terms of their said agreement, and the rights of said parties; and provided further, that in case of the sale or lease of said second story of said town hall to any person or persons, the same shall be appraised and taxed as other private property.

SEC. 2. This act shall be in force and take effect from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed March 7, 1873.

## AN ACT

To create two separate Election Precincts in Guilford township, Medina county, Ohio.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the incorporated village of Seville, situated in the township of Guilford, Medina county, state of Ohio, be and the same shall constitute a separate election precinct in said township for all election purposes: Provided, that said election precinct shall at all times be held to embrace the incorporated limits of said village of Seville, and that the remaining portion of the territory composing said township shall constitute another separate election precinct within said township.

SEC. 2. This act shall take effect on its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed March 7, 1873.

## AN ACT

To extend the time for payment of School Lands in Section Sixteen, in Marion township, Henry county, Ohio.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That a further period of five years from the day the respective installments become due, be and the same is hereby given to the purchasers of lands in school section number in Marion township, Henry county, Ohio, for the payment of the principal of the purchase money thereof: Provided, that the interest and taxes thereon shall be punctually paid according to law; and, provided further, that the auditor of said county may, at any time, require additional security for the payment of the principal and interest, if in his opinion the public interest may require it.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed March 7, 1873.

## AN ACT

To authorize and require the commissioners of Miami county, to distribute to certain townships of said county a balance of railroad fund remaining in the treasury of said county.

WHEREAS, In the year 1852, by virtue of a vote had in eight townships of Miami county, to wit: the townships of Bethel, Elizabeth, Lost Creek, Staunton, Concord, Monroe, Newton and Union, sixty thousand dollars of stock was subscribed to the Dayton and Michigan Railroad Company

and the bonds of said county were issued therefor, running twenty years, and due in the year 1872; and,

WHEREAS, By taxes levied and collected from said eight townships of said county, and the sale of the stock of said Dayton and Michigan Railroad Company held by the county, the said bonds and interest have been fully paid, and there still remains in the treasury of said county the sum of twelve thousand dollars; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Miami county are hereby authorized and required to order the distribution of the said surplus so remaining in the treasury of said county to the townships and incorporated villages therein from which the same was collected, pro rata as the same was collected.

SEC. 2. That the auditor of the county be required to make the distribution as provided for, and draw his order on the treasurer of the county payable to the treasurers of the townships of Bethel, Elizabeth, Lost Creek, Staunton, Concord, Monroe, Newton and Union, and the incorporated villages of Casstown, Pleasant Hill, Milton, Tippecanoe and Troy, for the several amounts to which they are pro rata entitled according to the amount collected from each.

SEC. 3. That the several amounts so paid to the treasurers of the townships and incorporated villages as before mentioned shall be subject to the control of the township trustees of the various townships and the councils of the incorporated villages, and be disposed of as they in their discretion may deem best for any purpose now provided for by law.

SEC. 4. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed March 7, 1873.

## AN ACT

To amend section one of an act entitled "An act to authorize the town council of the village of Bryan, Williams county, Ohio, to issue bonds to raise money to build a town hall, engine house, and public offices, and purchase a steam engine for said village. (Vol. 69, O. L., p. 243.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section one of the above recited act be so amended as to read as follows:

Section 1. That the town council of the village of Bryan, Williams county, Ohio, be and they are hereby authorized to issue their bonds not to exceed the sum of twenty thousand dollars, to raise money for the purpose of building a town hall, engine house, public offices and purchasing a fire engine; said bonds to be signed by the mayor, clerk or recorder of said council, and to be in sums not less than fifty dollars nor more than five hundred dollars each, bearing interest at a rate not exceeding eight per cent. per annum, interest payable annually, and principal payable at

any time not exceeding five years from the time of issuing the same, at the discretion of said council; provided, that said bonds shall not be sold for less than their par value.

SEC. 2. That original section one of the above recited act be and the same is hereby repealed.

SEC. 3. That this act shall take effect from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed March 10, 1873.

## AN ACT

To authorize the separate school district of the incorporated village of Antwerp, and the territory thereunto annexed for school purposes, in Paulding county, to issue bonds and borrow money to build a school-house, and levy a tax to redeem the same.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of the separate school district composed of the corporate limits of the village of Antwerp, and territory annexed for school purposes in Paulding county, Ohio, for the purpose of raising money to build and furnish a school-house in said separate district, are hereby authorized to issue the bonds of said district, in sums not less than one hundred dollars each, not to exceed in the aggregate fifteen thousand dollars, bearing interest at a rate not exceeding eight per cent. per annum, payable semi-annually; said bonds to be payable at any time not exceeding fifteen years from the date of their issue, at the pleasure of the board.

SEC. 2. Said bonds shall be signed by the president of said board and attested by the clerk, who shall keep a record of all the bonds issued, to whom payable, and when, and shall be negotiable and may have coupons or interest bearing warrants attached thereto, and shall not be sold for less than their par value.

SEC. 3. That said board of education is hereby authorized and empowered to levy a tax, annually, on all the taxable property within the limits of said separate district and territory thereto annexed for school purposes, sufficient to pay said bonds and accruing interest thereon, in excess of what is now allowed by law for school purposes, which levy shall be placed on the tax duplicate by the auditor of the county, and collected as other taxes; provided, that before said board of education shall borrow said money, issue said bonds or levy said tax, the question shall be first submitted to the qualified electors of said separate district at some regular or special election, whether they desire the issuing of said bonds and the levying of said tax; and provided further, that notice of the submission of said question shall be given at least ten days prior to the holding of the same by posting up printed or written bills in at least five of the most public places within the bounds of said district; and if a majority of the electors voting at said election upon the question shall be in favor of a tax being levied and bonds issued for said purpose, then said board

of education shall be fully authorized to proceed under the provisions of this act.

SEC. 4. Said question shall be submitted to the electors in the following form: "School Tax—Yes;" "School Tax—No;" which shall be written or printed, or partly written or printed on the ballots, and the returns of said election shall be made as in cases now provided by law. The board of education shall have power and authority, and it is hereby made their duty, to order an election and to cause notice thereof to be given as provided for in section three of this act.

SEC. 5. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed March 10, 1873.

## AN ACT

To create two separate election precincts in Athens township, Harrison county.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That all the territory included in sections one, four, five, six, thirty-one, thirty-four, thirty-five and thirty-six, in the township of Athens, in the county of Harrison and state of Ohio, be and the same shall constitute a separate election precinct in said township, in which the elections shall be held in the village of New Athens in said precinct; and that the remaining portion of the territory composing said township shall constitute another separate precinct within said township.

SEC. 2. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed March 10, 1873.

## AN ACT

To repeal an act entitled an act to authorize the construction of a Branch Road to the Hamilton and Gregory's Creek Turnpike Road Company, passed April 13, 1869. (O. L. vol. 66, page 378.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That an act entitled an act to authorize the construction of a branch road to the Hamilton and Gregory's Creek Turnpike Road Company, passed April 13, 1869, be and the same is hereby repealed.

**SEC. 2.** This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
 ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed March 10, 1873.

## AN ACT

To authorize the County Commissioners of Muskingum county to issue bonds for the building of a Court House.

**SECTION 1.** *Be it enacted by the General Assembly of the State of Ohio,* That the county commissioners of Muskingum county be and they are hereby authorized to issue the bonds of the said county; no bond to be issued shall exceed ten thousand dollars, and in the aggregate not exceeding one hundred thousand dollars. None of said bonds to extend beyond January first, A. D. 1881, and all to bear interest not exceeding eight per centum per annum, interest payable semi-annually; said bonds shall not be disposed of for less than their par value.

**SEC. 2.** That said bonds shall be signed by the county commissioners and the county auditor of said county, and said bonds and their proceeds shall be applied to the construction and erection of a court house in said county, and to no other use or purpose.

**SEC. 3.** That this act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
 ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed March 10, 1873.

## AN ACT

To amend section one of an act entitled an act to authorize New Paris and vicinity, in the township of Jefferson, Preble county, to elect Trustees for the New Paris Meeting House and property belonging thereto, passed April 27th, 1872. (O. L., volume 69, page 274.)

**SECTION 1.** *Be it enacted by the General Assembly of the State of Ohio,* That section one of the above entitled act be amended so as to read as follows:

**Section 1.** That the citizens of New Paris and vicinity, in the township of Jefferson, Preble county, be and they are hereby authorized to elect trustees to fill any vacancy or vacancies that exist or may exist in

the number of trustees for the public meeting house in New Paris, as fixed in said original grant, whenever and as often as a vacancy may occur, on giving ten days notice by posting up in five of the most public places in the village of New Paris and vicinity, as aforesaid, written notice signed by any five of said citizens, showing the time and place of such election; each person receiving a majority of the votes cast at any such election shall be and is hereby vested with the same rights, and authorized to discharge the same duties as a trustee mentioned in the original grant.

SEC. 2. That section one of the act to which this is an amendment be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed March 12, 1873.

## AN ACT

To authorize the Commissioners of Jefferson county, Ohio, to purchase the materials and contract for the labor therein mentioned by private contract without publication or public letting.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Jefferson county may, if they are of opinion that the interest of the public will be best subserved thereby, make private contracts without publication or public letting, for purchasing a bell and clock for the new court house building now being erected for said county, as also for such furniture as may be necessary and proper for the use of the court room and county offices in said building, and for grading, paving and fencing the grounds belonging to said county, in which said court house is being erected, including the furnishing of the materials for such paving and fencing.

SEC. 2. The cost of said bell, clock, furniture, labor and materials mentioned in the foregoing section, shall be paid on the warrant of the auditor of said county, drawn by order of said commissioners, out of any moneys in the treasury of said county which have been or shall hereafter be raised by taxation or from the sale of the bonds of said county, for the purpose of erecting and completing said court house building, under the provisions of the act passed April 27th, 1869, (Ohio Laws, vol. 66, page 52,) authorizing county commissioners to purchase land and erect court houses and for other purposes.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed March 14, 1873.



## AN ACT

To authorize the commissioners of Clermont county, Ohio, to complete certain free turnpike roads.

**SECTION 1.** *Be it enacted by the General Assembly of the State of Ohio* That the board of county commissioners of Clermont county, Ohio, be and they are hereby authorized to complete, at the expense of the county, out of the general county fund, the unfinished free turnpike road leading from the town of Georgetown, in Brown county, to the town of Bethel, in Clermont county, or that part of said road lying in Clermont county, being a distance of about two and one-half miles, lying between the said town of Bethel and the county line between the counties of Clermont and Brown.

**SEC. 2.** That said commissioners of Clermont county be and they are hereby authorized to complete, at the expense of the county, out of the general county fund, the free turnpike road leading from the town of New Hope, in Brown county, and the Ohio turnpike road at Bethel, Clermont county, or that part of said road lying within Clermont county, between the said town of Bethel and the county line between the counties of Clermont and Brown, being in distance about one-half mile.

**SEC. 3.** This act shall take effect from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed March 14, 1873.

## AN ACT

To authorize the trustees of Keene township, Coshocton county, to pay costs in a certain case.

**SECTION 1.** *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of Keene township, Coshocton county, be and they are hereby authorized to pay out of the treasury of said township the costs in the case of George Smith against John Foster, Liverton Beall and Morris Failing, which said suit was finally decided in the supreme court of this state at its fall term, A. D. 1872: Provided, that before they shall be authorized to make such payment out of the township treasury, the question shall be submitted to the qualified electors of said township at some general spring or fall election, and the electors shall either write or print upon their ballots, "Pay Costs—Yes," or "Pay Costs—No," and if a majority of the electors voting at said election shall vote "Pay Costs—Yes," then the said trustees shall be authorized to pay said costs; provided, further, that previous to submitting said proposition to the electors as aforesaid, said trustees shall give at least twenty days notice by posting in at least three of the most public places in said township, of the time and manner of submitting said proposition.

SEC. 2. That if it shall become necessary in order to pay said costs, the said trustees are hereby authorized to levy a tax on all the taxable property of said township, in addition to that now authorized by law, sufficient for that purpose, and upon making such levy to certify the amount thereof to the auditor of said county, whose duty it shall be to place the same upon the tax duplicate of said township, to be collected and paid to the treasurer of said township the same as other funds.

SEC. 3. This act shall take effect from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 JACOB MUELLER,  
*President of the Senate.*

Passed March 14, 1873.

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### AN ACT

To authorize the trustees of the township of Elk, Vinton county, to levy a tax to pay an existing indebtedness.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of the township of Elk, in the county of Vinton, be and they are hereby authorized to levy a tax of two thousand dollars on all the taxable property of said township for the year 1873, to pay an existing indebtedness of said township, which levy shall be certified to the county auditor and collected as other taxes for township purposes are for the year 1873.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 JACOB MUELLER,  
*President of the Senate.*

Passed March 14, 1873.

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### AN ACT

To authorize the county commissioners of Coshocton county to build a bridge.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Coshocton county be and they are hereby authorized to levy a tax upon the taxable property of said county, not exceeding one and one-half mill on the dollar of the taxable valuation of said county, for the purpose of building a bridge across the Muskingum river, at or near the ford known as Robinson's ford, about eight miles below the town of Coshocton.

SEC. 2. That said county commissioners shall be governed in the erection of said bridge by the act amending section seven, Ohio laws, volume 68, page 21, passed February 16, 1871.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed March 14, 1873.

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### AN ACT

To authorize the trustees of Parkman township, Geauga county, Ohio, to levy a tax for certain purposes therein named.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of Parkman township, Geauga county, Ohio, be and they are hereby authorized to levy and assess a tax, the amount of which to be by them determined, and submit the same to a vote as herein provided, for the purpose of purchasing a hearse for the use of the township and erecting a suitable building in which to keep the same; the said hearse and building to be under the control of said trustees, or some person by them appointed: Provided, that the trustees shall first submit the question of tax or no tax for either of the above named purposes to the qualified electors of the township at a general election, having given at least ten (10) days notice of the same, in at least three public places in the township, which notice shall state the amount to be raised and for what purpose.

SEC. 2. The electors voting at said election shall have written or printed upon their ballots the words "Tax—Yes," or "Tax—No;" and if a majority of all the electors voting at said election upon the question submitted shall vote "Tax—Yes," this act shall thereupon be considered and holden to be adopted by such majority.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed March 17, 1873.

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### AN ACT

To authorize the commissioners of Hamilton and Clermont counties to build a bridge across the Little Miami river at or near Fuller's Mills and Montgomery Station, on the Cincinnati and Marietta Railroad.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Hamilton and Clermont counties are hereby authorized to build a free bridge across the Little Miami river at or near

Fuller's mills and Montgomery station, on the Cincinnati and Marietta railroad, in Hamilton county, Ohio, at a cost not exceeding forty-five thousand dollars: Provided, that no contract shall be entered into for building said bridge by the commissioners of Hamilton county unless the same be approved by the board of control of said county.

SEC. 2. This act shall be in force on its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed March 17, 1873.

## AN ACT

To authorize the Board of Education of Oberlin School District, in Lorain county, Ohio, to issue bonds to obtain money for building a school-house.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That for the purpose of erecting a Union school-house, and for furnishing the same in anticipation of taxes to be levied for that purpose, the board of education of Oberlin union school district, in Lorain county, is hereby authorized to borrow money and issue bonds therefor in the name of said board, not exceeding in the aggregate thirty thousand dollars, bearing interest payable semi-annually, at a rate not exceeding eight per centum per annum, and issued in such denominations not less than fifty nor more than one thousand dollars, and having such time to run, not exceeding ten years, as said board shall determine: Provided, that said bonds shall not be sold for less than their par value; and provided, further, that before any bonds shall be issued or money borrowed under this act, the question of the propriety thereof shall be submitted to the electors of said Union school district at some general election in April or October, and a majority of all electors voting at said election shall have voted in favor thereof, and said election shall be held and conducted as follows: The board of education shall give at least ten days notice of the time and place of holding said election by posting written or printed notices thereof in at least five public places in said district, and said election shall be by ballot, and all ballots in favor of issuing said bonds or borrowing money as aforesaid shall have written or printed thereon "Issue Bonds—Yes," and those against "Issue Bonds—No." The said board of education shall be judges of the election, and the electors present shall choose two clerks of said election, and they shall count the ballots and certify the result, together with a poll-book and tally-sheet, to the township clerk of said township, who shall make a record thereof.

SEC. 2. That for the purpose of paying said bonds and the interest thereon as it becomes due, the said board of education is hereby authorized and empowered to levy a tax annually on all the taxable property in said union school district, sufficient to pay said bonds and interest as they shall become due, which levy shall be placed on the tax duplicate by the

auditor of said Lorain county, and shall be collected as are other taxes, and the money so raised shall not be used for any other purpose than to pay said bonds and interest.

SEC. 3. This act shall take effect on its passage.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed March 18, 1873.

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## AN ACT

To authorize the village council of the incorporated village of West Union, in the county of Adams, to levy a tax to aid in the construction of a new court-house for said county.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the village council of the incorporated village of West Union, is hereby authorized and empowered to levy a tax of six hundred dollars for each year of the years 1873, 1874, 1875, 1876 and 1877 upon the taxable property of said incorporated village, for the purpose of aiding in the construction of a new court-house at West Union, in said county of Adams.

SEC. 2. That this act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed March 28, 1873.

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## AN ACT

To authorize the Board of Education of Wilmington, Clinton county, Ohio, and territory annexed for school purposes, to levy a special tax to pay an existing indebtedness.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of the incorporated village of Wilmington, Clinton county, Ohio, and territory annexed thereto for school purposes, be and it is hereby authorized to levy a special tax (in addition to the taxes now authorized by law) upon all the taxable property of said village and territory thereto annexed for school purposes, for the year 1873, not exceeding seven mills on the dollar, for the purpose of enabling said board to pay its existing indebtedness.

SEC. 2. That an act entitled "An act to authorize the board of education of Wilmington, Clinton county, Ohio, and territory annexed for school purposes, to levy a special tax to pay an existing indebtedness," be and the same is hereby repealed.

SEC. 3. This act shall take effect from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed March 29, 1873.

### AN ACT

To authorize the trustees of Pleasant township, Hardin county, Ohio, to transfer funds from the treasury for poor fund purposes, to the general township fund of said township.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of Pleasant township, Hardin county, Ohio, are hereby authorized to permanently transfer fifteen hundred dollars from the township poor fund to the general township fund of said township.

SEC. 2. This act shall take effect from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed March 29, 1873.

### AN ACT

To authorize the trustees of Brown township, Darke county, Ohio, to levy and assess a tax for the purpose of paying an existing indebtedness of said township.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of Brown township, Darke county, Ohio, be and they are hereby authorized to levy an additional tax not exceeding nine hundred dollars (\$900) on the taxable property within the limits of said township for the purpose of paying an existing indebtedness of said township.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed March 29, 1873.

## AN ACT

To transfer territory from separate school district No. 4, in Paris township, to Paris township, Stark county, Ohio, for school purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the following territory be and hereby is transferred for school purposes from separate school district No. 4, in Paris township, to Paris township, in the county of Stark, in the state of Ohio, to wit: Beginning at the northwest corner of section eighteen (18), town 17, range 6; thence south to the southwest corner of said section; thence east with the south line of said section to the northwest corner of W. Shotzman's lot of fifty-five acres; thence south to the centre of section nineteen (19), same town and range; thence east to the southeast corner of said Shotzman's fifty-five acre lot; thence north to the northeast corner of the same in the section line; thence east with the section line to the northwest corner of M. Farmer's lot of thirty-three acres in the northeast corner of the northwest quarter of section twenty (20), same town and range; thence south to the southwest corner of said Farmer's thirty-three acre lot; thence east 120 rods, more or less, being the south line of said Farmer's thirty-three acre lot, and the south line of the west side of W. Shearer's lot of land in the northeast quarter of said section twenty (20); thence south to the south line of said northeast quarter of section twenty (20); thence east to southeast corner of said northeast quarter of section twenty (20); thence north with section line to the northeast corner of section seventeen (17), same town and range; thence west to the northwest corner of the northeast quarter of said section seventeen (17); thence north eighty rods; thence west to the east line of section seven (7), same town and range; thence north to the northeast corner of the southeast quarter of said section seven (7); thence west to the section line, and thence south to the place of beginning.

SEC. 2. This act shall take effect on its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed March 29, 1873.

## AN ACT

To authorize the Board of Education of the Union School District of Niles, Trumbull county, to borrow money and issue bonds therefor.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of the Union school district of Niles, in the county of Trumbull, be and they are hereby authorized to borrow the sum of ten thousand dollars, to be applied to the payment of the indebtedness existing for the erection of their school building, grading, fencing and improving the grounds of the same, and furnishing suitable apparatus therefor.

SEC. 2. That for the purpose aforesaid, the said board are authorized to issue bonds, to be signed by the president and attested by the clerk of said board, in sums of not less than one hundred dollars nor more than five hundred dollars, bearing interest at a rate not exceeding eight per centum per annum, payable semi-annually; said bonds to be payable at such time or times, not exceeding fifteen years from the respective dates thereof, as said board may determine, which said bonds shall not be sold for less than their par value.

SEC. 3. That for the purpose of paying said bonds and interest thereon as the same shall become due, the said board of education are hereby authorized and empowered to levy on all the taxable property of the said school district, a tax for such an amount annually as will be sufficient to pay the principal of the debt that shall fall due each year, and also the interest falling due annually on the bonds so issued, which levy shall be placed on the tax duplicate by the auditor of the county, collected as are other taxes, and when collected paid over to the treasurer of said Union school district.

SEC. 4. This act to take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 2, 1873.

## AN ACT

To authorize the Trustees of Middleburgh township, Cuyahoga county, to purchase a farm for poor purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of Middleburgh township, Cuyahoga county, be and they are hereby empowered to purchase a farm at an expense not to exceed seven thousand dollars, for poor purposes, and to levy a tax on the taxable property of said township for the amount necessary for said purchase: Provided, that before said purchase shall be made, the question shall be submitted to the people of the township at an annual township election held after the passage of this act, and after due notice shall have been given; and if a majority of the votes cast at said election shall be in favor of a tax to be levied for such purpose, then said trustees shall be fully authorized to proceed as before stated, and the voter shall have placed upon his ticket: "Tax for farm for poor purposes—Yes," or "Tax for farm for poor purposes—No;" but all tickets that do not contain a vote upon the question so submitted, shall not be counted in the aggregate of votes provided for.

SEC. 2. This act shall take effect from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 2, 1873.



## AN ACT

To authorize the commissioners of Trumbull county to remove drift and timber from the rivers in said county.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Trumbull county are hereby authorized to cause to be removed from any river within said county, any drift or timber for the better protection of roads and bridges in said county.

SEC. 2. That before the commissioners shall proceed to remove said drift or timber, there shall be filed with the county auditor of said county a petition signed by five or more tax payers of the county, setting forth the benefits to be derived from removing said drift and timber, the starting point, and terminus, with a description of the river to be cleared, and amount of drift and timber to be removed, together with an estimate of the cost to be incurred to complete said work; and the auditor shall, at the next regular or called meeting of the commissioners, notify them of the filing of said petition, and furnish said commissioners with a copy of the same.

SEC. 3. That the commissioners, upon receiving a copy of said petition, shall forthwith appoint some disinterested person, resident of the county, who shall go upon the line of said river and examine the same carefully and make his report to the county auditor in writing, stating whether he deems the clearing of said river important and beneficial for the protection of any state or county road or bridge, and if so, an estimate of the amount of money required to perform the same.

SEC. 4. That the county auditor shall, at the first regular or called meeting of the commissioners after receiving the report from said disinterested person, notify and furnish said commissioners with a copy of the same, and if said report recommends the clearing of said river, the commissioners shall be authorized to proceed to let the same at public sale to the lowest and best responsible bidder, and take a bond, payable to the state of Ohio, of the person or persons to whom said work is let, with good and sufficient security for the faithful performance of the same within a specified time, and on the completion of the work thus let, and acceptance by the said commissioners, the auditor shall issue a certificate to the person performing said work for the sum due: Provided, that in no case shall the work be let at a higher price than twenty per cent. above the estimate fixed by said disinterested person; and, provided further, that no person having an official duty to perform about said work, shall be interested, directly or indirectly, in any contract for the clearing of said river.

SEC. 5. That all costs for letting, clearing the river, and all other necessary costs or expenses, which shall accrue under this act, shall be paid out of the county treasury, out of the general fund, on the order of the county auditor.

SEC. 6. This act shall take effect on its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 2, 1873.

## AN ACT

To create a Joint Sub-District for school purposes in the townships of McLean and Turtlecreek, Shelby county, Ohio.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio.* That the west half of section three, (3) the whole of section four, (4) the east half of section five, (5) the east half of fractional section eight, (8) the whole of fractional section nine, (9) and the west half of fractional ten, (10) town eight (8) south, range (5) east; also the northwest quarter of section one, (1) the north half of fractional section two, (2) and the northeast quarter of fractional section three, (3) town ten, (10) range five (5) east; also fractional section thirty-five, (35) and the west half of fractional section thirty-six, (36) town eleven, (11) range five (5) east, shall constitute a sub-district for school purposes, in the townships of McLean and Turtlecreek, in the county of Shelby, Ohio.

SEC. 2. Said joint sub district shall be governed in all respects by the same act, and acts amendatory thereto, as if it had been created by the joint action of the boards of education of said townships of McLean and Turtlecreek.

SEC. 3. This act shall take effect from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 2, 1873.

## AN ACT

To authorize the Board of Education of the city of Youngstown, in the county of Mahoning and State of Ohio, to borrow money and issue bonds therefor.

SECTION 1. *Be it enacted by the General Assembly of State of Ohio.* That the board of education of the city of Youngstown, in the county of Mahoning, be and they are authorized to borrow the sum of sixteen thousand dollars, to be applied to the payment of the indebtedness existing for the erection of their school buildings.

SEC. 2. That for the purpose aforesaid, the said board are authorized to issue bonds, to be signed by the president and attested by the clerk of said board, in sums of not less than one hundred dollars, and not more than five hundred dollars, bearing interest at a rate not exceeding eight per centum per annum, payable semi-annually; said bonds to be payable at such time or times not exceeding twelve years from the respective dates thereof, as said board may determine, which said bonds shall not be sold for less than their par value.

SEC. 3. That for the purpose of paying said bonds and interest thereon, as the same shall become due, the said board of education are hereby authorized and empowered to levy on all the taxable property of the said school district a tax for such an amount annually as will be sufficient to

pay the principal of the debt that shall fall due each year, and also the interest falling due semi-annually on the bonds so issued, which levy shall be placed on the tax duplicate by the auditor of the county, collected as other taxes, and when collected paid over to the treasurer of said school district.

SEC. 4. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 9, 1873.

## AN ACT

To divide the township of Adams, Lucas county, into two election precincts.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the township of Adams, Lucas county, be and the same is hereby divided into two election precincts, for all state, county and township purposes, which precincts shall be bounded and described as follows, viz: All the portion of said Adams township lying and being west of the following described line, to wit: Commencing at the Maumee river, in said Lucas county, at the dividing line between section sixteen (16), and river tract thirteen (13), town three (3), in the twelve mile square reserve at the foot of the rapids of the Miami of Lake Erie, and running thence due north to the track of the Detroit and Toledo railroad; thence northly along the outer or northerly line of said Detroit and Toledo railroad to the dividing line between Adams and Washington townships, in said county, shall constitute the first voting precinct of said township.

SEC. 2. All that portion of Adams township lying east of said above described line shall constitute the second voting precinct of Adams township.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 9, 1873.

## AN ACT

To authorize the Board of Commissioners of Henry county, Ohio, to build a bridge across the Maumee river.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of county commissioners of the county of Henry and state of Ohio, be and hereby are authorized to levy a tax upon all the taxable

property of said county for the purpose of constructing a bridge across the Maumee river at or near the village of Texas, in said county: Provided, that said tax shall not in any one year exceed the sum of three mills on the dollar valuation of said property, and that no levy shall be made before the year 1874.

SEC. 2. Said tax shall be collected in the same manner that other taxes are collected, and shall be applied to no other purpose than that for which it is collected.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 9, 1873.

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### AN ACT

Authorizing the incorporated village of Weston, Wood county, Ohio, to hold an election on the first Monday of May, 1873.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the incorporated village of Weston, in Wood county, Ohio, is hereby authorized to hold its first municipal election on the first Monday of May, 1873; notice whereof shall be given by the township clerk of the township wherein said village is situated, immediately on the passage of this act, by posting notices in five public places in said village.

SEC. 2. That this act shall take effect on its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 9, 1873.

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### AN ACT

To authorize the refunding to certain townships of Noble county, excess of taxes paid by said townships into the treasury of said county.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the auditor of the county of Noble be authorized, and it is hereby made his duty, to draw his warrant upon the treasurer of said county in favor of the treasurers of the townships of Beaver, Buffalo, Seneca and Wayne, in said county, for such amount of tax collected from said townships, respectively, by the treasurer of said Noble county, to be paid to

Guernsey county, to pay principal and interest on certain bonds issued by said Guernsey county in the purchase of certain railroad stock, and commonly known as "railroad tax," as was paid into the treasury of said Noble county, but not paid to Guernsey county, being in excess of the amount required by law to be paid to said Guernsey county by said respective townships for the purpose aforesaid.

SEC. 2. That the money received by said township treasurers upon the warrants aforesaid shall, when received, be credited to and become a part of the township fund of said townships respectively.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 9, 1873.

## AN ACT

To authorize the Board of Education of Wayne township, Darke county, Ohio, to issue bonds to obtain money for the purpose of building school-houses, and to pay existing debt of said township, and to levy a tax to pay said bonds.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of Wayne township, Darke county, Ohio, be and they are hereby authorized to issue bonds, not exceeding in amount three thousand dollars (\$3,000), to pay a debt incurred in the erection and construction of school buildings in said township, said bonds to be signed by the president and secretary or clerk of said board of education, and to be in sums of not less than fifty dollars nor more than five hundred dollars each, bearing interest at a rate not exceeding eight per cent. per annum, the principal and interest of said bonds to be payable as said board of education may direct, not exceeding three years from the time of issuing the same: Provided, the said bonds shall not be sold for less than their par value.

SEC. 2. That for the purpose of paying said bonds and the interest thereon, as the same shall become due, the said board of education is hereby authorized and empowered to levy a tax on the taxable property of Wayne township, Darke county, Ohio, in such amounts annually, commencing in the year 1873, as will be sufficient to pay the principal and interest of said bonds as they may become due in each year, as said board of education shall determine, and the money so raised shall not be used for any other purpose than to pay said bonds or debt and interest thereon.

SEC. 3. This act shall be in force and take effect from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 9, 1873.

## AN ACT

To authorize the board of education of Greene township, Shelby county, Ohio, to levy a tax to build school houses in said township.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of Greene township, county of Shelby, in addition to the other powers of taxation heretofore conferred by law, be and they are hereby authorized and empowered to assess on the grand levy of the taxable property of said township for the years 1873, 1874 and 1875, a tax not exceeding three mills on the dollar, to be applied only in the erection of school houses in said township.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 9, 1873.

## AN ACT

For the relief of George W. Darling, Treasurer of Worthington township, Richland county, Ohio.

WHEREAS, On the 14th of February, 1873, the dry goods store of George W. Darling, treasurer of said township, took fire and was consumed and three hundred and eighty-two dollars of township funds with the township books and papers; and

WHEREAS, A large number of the citizens of said township, by their petition, and also by the affidavit of George W. Darling, treasurer of said township, represent to this General Assembly that said fire was not the result of any fault or negligence on the part of said George W. Darling, or any person in his employ; and

WHEREAS, Said petitioners ask that the trustees of said township submit the question to the people of levying a tax on the taxable property of said township to replace said money; therefore

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of Worthington township, Richland county, Ohio, are hereby authorized to release the said George W. Darling from the payment of the sum of the three hundred and eighty-two dollars, and enter said release upon the minutes of said trustees; provided, that before said release shall be made, the question shall be submitted to the qualified electors of said township, at the April election of 1873, and a majority of the electors voting at said election shall vote in favor thereof.

SEC. 2. This act shall take effect from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 9, 1873.

## AN ACT

To authorize the County Commissioners of Muskingum county to levy a tax to build a bridge.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the county commissioners of Muskingum county be and hereby are authorized and empowered to levy on the taxable property of said county, such a per centum as will yield a sum not exceeding eight thousand dollars, such levy to be made for the year 1873, and to be collected as other county taxes are collected; such levy to be made at the discretion of said county commissioners.

SEC. 2. The money authorized to be collected under this act shall be appropriated to the construction of a bridge across the Muskingum river, in the township of Franklin, known as Robson's ford, in Coshocton county, near the line of said Muskingum county, and to no other purpose.

SEC. 3. This act shall be in force from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed April 9, 1873.

## AN ACT

To amend an act entitled "An act to authorize the council of the incorporated village of Middletown, Butler county, Ohio, to borrow money for the construction of water works for said village, for fire and for other purposes," passed March 29, 1872. (69 O. L., 233.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the council of the incorporated village of Middletown, Butler county, are hereby authorized and empowered to borrow, not exceeding in all, the sum of seventy-five thousand dollars, to be used and applied only to the purpose of constructing water works for the protection of said village from fire, and for domestic and other purposes in said village, or twenty-five thousand dollars for procuring and paying for steam fire engine or engines, and other apparatus for protection against fire and extinguishing the same, as may be determined by the voters of said village as hereinafter provided; and for this purpose to issue the bonds of said village, payable in not less than ten or more than twenty years from their respective dates, and bearing interest not exceeding eight per centum per annum, payable semi-annually, which bonds shall be signed by the mayor and countersigned by the clerk, and be by their terms made redeemable at the pleasure of the council; provided, that said bonds shall not be disposed of at less than their par value.

SEC. 2. That for the purpose of paying said bonds, and the interest thereon as the same may become due, or redeeming the same earlier, said council shall be and are hereby authorized to levy a tax annually, upon all the taxable property within said village, not exceeding three and one-half mills on the dollar in any one year; provided, that no such loan shall

be made, bonds issued or tax levied, unless the qualified voters of said village shall, at a special election to be held as hereinafter provided, approve by a majority of the voters of said village voting at such special election, one or the other of the following propositions, namely: Either, first, to borrow seventy-five thousand dollars for water works; or, second, to borrow twenty-five thousand dollars for steam fire engines and other apparatus for protection against fire. In either case, the moneys arising from the tax levied under the act of which this is amendatory to be used for the purpose so approved by said voters, and in reduction, to that extent, of the amount so authorized to be borrowed. Said special election shall be held at the usual places of holding elections in said village, after ten days' notice thereof being given by the mayor of said village, in the way provided for notice of other municipal elections, on the third Monday of April, 1873; and as to time and manner of opening and closing the polls, keeping poll-books, voting, and qualification of voters, judges and clerks, and in all other respects, shall be held and conducted as provided for by and in accordance with the laws regulating the regular municipal election in said village; but each voter may vote in the same ballot on either or both of said propositions; those voting in favor of said loan for water works having printed or written on their ballots the words "\$75,000 for water works—Yes," and those against "\$75,000 for water works—No;" and those voting in favor of said loan for steam fire engines, and other fire apparatus, having printed or written on their ballots the words "\$25,000 for steam fire engines—Yes," and those against "\$25,000 for steam fire engines—No." And in case a majority of the voters voting at said election shall vote in favor of either of said propositions, then the council of said village may borrow as aforesaid the amount so approved by said majority vote, less the amount of money arising from said tax already levied, and use the same for the purpose so indicated and approved, and no other; but in case each of said propositions shall be approved by a majority vote of said voters, then only that proposition receiving the larger number of votes shall be considered approved, and the council shall proceed accordingly.

SEC. 3. The act entitled "An act to authorize the council of the incorporated village of Middletown, Butler county, Ohio, to borrow money for the construction of water works for said village, for fire and other purposes," is hereby repealed, and this act shall take effect and be in force from its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 JACOB MUELLER,  
*President of the Senate.*

Passed April 10, 1873.

## AN ACT

To authorize the Commissioners of Franklin county to build a bridge across Big Walnut Creek, in said county, and to levy a tax therefor.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Franklin county be and they are hereby authorized to locate and build a bridge across Big Walnut creek, on the county



road south and east of James Taylor's residence, in Truro township, in said county, or at any other point selected by the county commissioners, and to levy a tax for that purpose not exceeding three-eighths of one mill on the dollar on all the taxable property of said county for the year 1873, in addition to the other levies authorized by law.

SEC. 2. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 10, 1873.

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### AN ACT

To authorize the Board of Education of the Union School District of Garrettsville, Portage county, Ohio, to levy a tax to pay an existing indebtedness and to make improvements.

WHEREAS, The board of education of the union school district of Garrettsville, Portage county, Ohio, have incurred an indebtedness in the construction of a school building for said union school district, a part of which remains unpaid, and former levies are insufficient for that purpose; and,

WHEREAS, There is work still to be done in order to complete said structure and the necessary outbuildings; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That said board of education are hereby authorized and empowered to levy a tax upon the taxable property of said school district, not exceeding sixteen mills on the dollar valuation of property in said district, for the purpose of paying off the existing indebtedness and making such needed improvements upon the school grounds as the board of education shall deem best for the welfare of said district. One half of said tax to be levied in the year 1873, and the other half to be levied in the year 1874.

SEC. 2. This act shall take effect on its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 11, 1873.

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### AN ACT

To enable the Board of Education of Worthington School District, in Sharon township, Franklin county, Ohio, to take possession of and control, for school purposes, certain real estate situate within said school district.

WHEREAS, The Scioto Company, on the 14th day of December, A.D.

1802, by a certain article of agreement executed by the members thereof, set apart and dedicated to the public, for school purposes, a certain portion of the territory then owned by said company, situate in Sharon township, Franklin county; and,

WHEREAS, On the 16th day of May, A.D. 1804, said Scioto Company laid out the town of Worthington, and on the recorded plat thereof set apart and dedicated to the public, for school purposes, lots marked on said plat "D" and "E;" and,

WHEREAS, On the 11th day of August, A.D. 1804, the members composing said Scioto Company executed among themselves a deed of partition of the real estate then belonging to said company, and, among other things therein contained, ratified and confirmed their dedication for school purposes, as made on the 14th day of December, A.D. 1802, and in said deed of partition set apart specifically certain real estate therein named for the purposes aforesaid, situate within said Worthington school district, a part of which is now under the control of the president and trustees of Worthington College; and,

WHEREAS, The said president and trustees, hereby ratifying and confirming the acts of themselves and their predecessors in office, and all conveyances made thereby, are desirous of transferring the possession and management of the real estate now under their control as aforesaid, together with the title to certain other real estate situate in Worthington, Ohio, purchased with the proceeds realized from the rents and profits of said trust property, but conveyed to said Worthington College, to the board of education of said Worthington school district; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That it shall be lawful for the board of trustees of said Worthington College to transfer to the board of education of said Worthington school district the possession and control of said trust property, real and personal, now in the possession of said board of college trustees, together with the title to all property purchased with proceeds realized from said trust fund; and said board of education, and their successors in office, after such transfer shall have been made by said board of college trustees, are hereby authorized to enter upon and take possession of all of said real estate so transferred to said board of education, with full power to erect upon any part of the same such buildings as the board may deem necessary for school purposes, and to control, manage and lease the balance of said real estate in such manner as the board may think proper for the best interests of the schools of said district, and to apply the issues and profits arising therefrom for the support and maintenance of such departments of learning in said schools as said board and their successors in office shall think advisable.

SEC. 2. The said board of education, and their successors in office, are hereby authorized to sell and convey the real estate purchased with the proceeds realized from said dedications, and to loan the money received from such sale, together with any other funds of a personal character which may be transferred to said board of education by said college trustees, upon real estate security, or to invest the same in state or United States securities, and to apply the interest arising therefrom to the support and maintenance of the schools of said district, as provided for in the first section of this act.

SEC. 3. That said trust property shall be exempt from all state, county, township and municipal taxes.

SEC. 4. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
 JACOB MUELLER,  
*President of the Senate.*

Passed April 11, 1873.

## AN ACT

To authorize the city of Tiffin to levy and collect a tax on the taxable property of said city for the purpose of providing a Sinking Fund to pay the funded debt of said city, and to pay the interest annually accruing thereon.

WHEREAS, The city of Tiffin has now existing a funded debt of fifty-five thousand dollars (\$55,000), incurred in the purchase of a public park within said city; and,

WHEREAS, Under the laws of the state now existing, the authority of the city council of said city to levy a tax to provide a sinking fund to extinguish said debt and to pay the interest annually accruing thereon is insufficient; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the city council of the city of Tiffin, Seneca county, Ohio, be and it hereby is authorized to levy and collect a tax on the taxable property of said city, in addition to the amount now authorized by law, not exceeding five mills on the dollar valuation in any one year, until said debt is fully provided for, to be certified, returned and collected as provided by law for other taxes, the proceeds of which, when collected, shall be applied, by order of the council, to the extinguishment of said funded debt and to paying the interest thereon, and for no other purpose.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 12, 1873.

## AN ACT

Supplementary to an act entitled an "An act to authorize the Trustees of Wellington township, Lorain county, Ohio, to levy a tax to purchase grounds for a Public Park and for Agricultural Exhibitions and Fairs," passed April 21, 1868. (Ohio Laws, volume 65, page 254.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of said township of Wellington, in Lorain county, be and are hereby authorized, upon a vote as hereinafter provided, to levy a

tax upon the taxable property of said township, not exceeding the sum of two thousand dollars, for the purpose of discharging an existing indebtedness contracted in and about the fencing, improving and purchasing the grounds for the public park authorized by the act to which this is supplementary. And said levy and tax to be made, either in whole or in such annual installments as such trustees shall deem most conducive to the public interests.

SEC. 2. That such levy shall not be made until the question of such taxation shall have been first submitted to a vote of the qualified voters of said township, which submission shall be in manner following, to wit: The said trustees shall, ten days prior to the annual election occurring on the first Monday of April, A. D. 1873, or at the next annual election thereafter, on the second Tuesday of October, 1873, give public notice of such submission at the said general election then next ensuing. The said trustees shall prepare a separate box for receiving the ballots so cast, which ballots shall be endorsed "Tax for payment of Park indebtedness—Yes," or "Tax for payment of Park indebtedness—No." If a majority of the ballots so cast shall be endorsed "Tax for payment of Park indebtedness—Yes," the said trustees shall proceed to levy said tax as hereinbefore provided; but if a majority of said votes is not so cast in favor of said tax, then the said trustees are hereby authorized to proceed at once to sell the said park grounds and fixtures in manner and form as is by law provided for advertising and sales of real estate by administrators. From the proceeds of such sale the said indebtedness shall be paid, and any surplus thereafter remaining shall go into the common school fund of said township.

SEC. 3. This act shall be in force on and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE.

*President pro tem. of the Senate.*

Passed April 12, 1873.

## AN ACT

To authorize the Governor of Ohio to execute a Deed of Conveyance to F. C. Trebein.

WHEREAS, Jacob and Abraham Harner, on the 28th of August, 1847, became the purchasers in common of lot No. 1, containing 128½ acres, and of lot No. 5, containing 148 acres, parts of section No. 16, township No. 3, range No. 7, in Greene county, Ohio, in pursuance of the statutes in such cases provided; and having fully paid therefor, said J. and A. Harner, on the 10th of February, 1870, received from the auditor of Greene county, final certificates of such full compliance with the terms of such sale, and,

WHEREAS, Said Abraham Harner having afterward died, said lands were partitioned between said Jacob Harner and the heirs of said Abraham, said heirs having had set off to them said lot No. 5, containing 148 acres; and,

WHEREAS, Frederick C. Trebein has become the owner by purchase from said heirs, of the whole of lot No. 5; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the auditor of state be authorized to prepare, and that the governor

of the state of Ohio be authorized to execute and deliver to Frederick C. Trebein, of Greene county, a deed of conveyance, in fee simple for lot No. 5, section No. 16, town No. 3, range No. 7, in Greene county, containing 148 acres of land, more or less, subject to the dower estate of Nancy Harner, as the same has been assigned to her in said lands.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed April 12, 1873.

## AN ACT

To authorize the creation of a separate School District in Franklin township, Monroe county, and to authorize the Board of Education of said separate district to issue bonds and levy a tax to build a school-house.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section eight, the east half of section two, all of section seven, (except the south half of the southeast quarter, and the south half of the southwest quarter,) the southwest quarter of the southwest quarter of section nine, all of section fourteen, (except the west half of the northwest quarter,) the south half of section fifteen, (except the southwest quarter of the southwest quarter,) and the east half of the southeast quarter of section twenty in Franklin township, Monroe county, be and the same is hereby created and declared to constitute a separate school district; Provided, however, that a majority of the electors residing in said district shall vote in favor of said separate school district, at some general or special election, and proceed to organize the same under the provisions of the act of April 9, 1867, (Swan & Saylor, page 717,) except the limitation of the first section requiring a population of two hundred and seventy-five persons; Provided, that the money now in the treasury of said township for building school houses shall be divided between said township and said separate district in proportion of the valuation of the property of said township and said separate district.

SEC. 2. That when said separate district shall be formed and organized as provided in section one of this act, the board of education of said special district be and they are hereby authorized to issue bonds, not exceeding four thousand dollars, to raise money to erect a school building in said separate district, said bonds to be signed by the president and clerk of said board of education, bearing interest at the rate not exceeding eight per cent. per annum, the said bonds to be paid in equal annual installments, not exceeding six years from the time of the issue of the same; Provided, that they shall not be sold for less than their par value.

SEC. 3. This act shall take effect from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed April 12, 1873.

## AN ACT

For the relief of Madison Main, Treasurer of Troy township, Delaware county, Ohio.

WHEREAS, It is represented that Madison Main, treasurer of Troy township, Delaware county, Ohio, having in his care and custody, at his home in Troy township, county and state aforesaid, the funds of said township, amounting to the sum of seven hundred and ninety-nine and sixty-nine one-hundredths dollars, on the 13th day of March, 1872, and at said time and place said premises were entered by some person or persons unknown, and said funds stolen; and

WHEREAS, A large number of the tax-payers and voters of said township represent that said robbery was not due to any fault, complicity or negligence on the part of said Main, and ask that he and his sureties be released from the payment of said sum of money so stolen; therefore

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of Troy township, county and state aforesaid, are hereby authorized to submit the question of the release of said treasurer to the qualified voters of said township at some general election, giving thirty days' notice thereof by publication in a newspaper of general circulation in said county, requiring said electors to vote for, or against, the release of said treasurer, and of the time of said vote; and the opinion of said electors shall be expressed on their ballots "Release of Treasurer—Yes," or "Release of Treasurer—No," which ballots shall be counted and returned by the judges and clerks of elections as in other cases. Should a majority of votes cast at said election be in favor of the release of said treasurer, then said trustees are hereby authorized to release said Madison Main and his sureties, on his official bond as treasurer of said township, from the payment of said sum of seven hundred and ninety-nine and sixty-nine one-hundredths dollars, stolen from said Madison Main on the day aforesaid, of the funds of said township in his charge, and enter said release on the minutes of said trustees.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 12, 1873.

## AN ACT

To authorize the Board of Education of the separate school district of the village of Caledonia, Claridon township, Marion county, Ohio, to issue bonds and borrow money.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of the separate school district of the village of Caledonia, Claridon township, Marion county, Ohio, be and the same are hereby authorized and empowered to issue bonds not to exceed twelve thousand dollars, bearing a rate of interest not to exceed eight per cent., to be of

such denominations as the said board shall determine, not less than fifty nor more than five hundred dollars; said bonds may be made payable in not less than ten equal annual installments, and shall not be sold for less than their par value; interest to be paid semi-annually, and the money arising from the sale of such bonds shall be applied to the purchasing of a lot of ground of not less than one acre, and the building and furnishing of a school-house in said separate school district, and for no other purpose.

SEC. 2. That said board of education shall have power, and it is hereby made their duty, after the issuing of said bonds, to levy a tax on the taxable property of said separate school district in each year during the running of said bonds sufficient to pay the interest semi-annually and principal of said bonds as they may become due, and the money arising from such tax shall be applied by said board to the payment of the interest and principal of said bonds, and for no other purpose.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 12, 1873.

## AN ACT

To authorize the Council of the incorporated village of London, Madison county, to sell out-lot No. 11, in said village, and purchase other grounds for burial purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the council of the incorporated village of London, in Madison county, Ohio, be and they are hereby authorized to sell out-lot number eleven, in said village, and apply the proceeds arising from such sale to the purchase of suitable grounds for the re-interment of such persons as are interred in said out-lot, and to pay the expenses of removing such persons from said out-lot to such other grounds as shall be purchased by such council.

SEC. 2. The council shall sell said out-lot to the highest and best bidder, on such terms as they may deem best, after at least four weeks' notice of the time and place of such sale; which notice shall be published in some newspaper published in said village. But the council shall not be required to sell said out lot for less than they shall deem the same reasonably worth; and on the sale of said out-lot being made, the mayor of said village shall execute to its purchaser a deed of conveyance of the same.

SEC. 3. This act shall take effect on its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 15, 1873.

## AN ACT

Supplementary to an act entitled "An act to authorize the trustees of Willoughby township, Lake county, Ohio, to buy a site and build a town hall thereon, and to levy a tax for that purpose," passed April 29th, 1872. (O. L. 69, 282.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That for the purpose of finishing the town hall authorized by the act to which this is supplementary, and for the purpose of improving the grounds and fencing the same, the said trustees are hereby authorized to issue an additional amount of bonds, not exceeding one thousand dollars, which bonds shall not be sold for less than their par value, and bearing not to exceed eight per cent. interest, and said bonds, as well as any portion of the bonds authorized to be issued by the act to which this is supplementary, may be made payable at any time not exceeding ten years from date.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 15, 1873.

## AN ACT

To authorize the trustees of Youngstown township, in the county of Mahoning, to sell the town hall.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of the township of Youngstown, in the county of Mahoning, be and they are hereby authorized and empowered to sell the town hall, situated in the city of Youngstown, and to use the proceeds of said sale for the benefit of said township.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 15, 1873.

## AN ACT

To authorize the Board of Education of school district No. 1, Scioto township, Ross county, to levy a tax to pay an existing debt.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of school district number one (1), Scioto township, Ross county, Ohio, be and it is hereby authorized to levy on the



taxable property of said school district, for the year 1873, the sum of thirteen thousand four hundred and fifty-six dollars, for the purpose of paying the bonds of said board of education now outstanding and the interest accruing thereon; and the money so raised shall not be used for any purpose than to pay said bonds and interest.

SEC. 2. Said sum of thirteen thousand four hundred and fifty six dollars shall be certified to the auditor of Ross county by said board of education, and shall be placed on the tax duplicate by him, and collected as other taxes are collected.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 18, 1873.

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## AN ACT

To authorize the board of education of the incorporated village of Vermillion, Erie county, Ohio, to issue bonds and borrow money to build a school-house.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of school district No. 1, Vermillion township, of the incorporated village of Vermillion, Erie county, Ohio, be and the same are hereby authorized and empowered to issue bonds not to exceed twelve thousand dollars, bearing a rate of interest not to exceed eight per cent. per annum, to be of such demonination as the said board shall determine, not less than fifty nor more than five hundred dollars; said bonds to be made payable any time the board of education shall determine, not to exceed ten years, and shall not be sold for less than their par value; interest to be paid semi-annually, and the money arising from the sale of such bonds shall be applied to the purchasing of a lot if necessary and the building and furnishing of a school house in said district No. 1, village of Vermillion, Erie county, and for no other purpose.

SEC. 2. That said board of education shall have power, and it is hereby made their duty, after the issuing of said bonds, to levy a tax on the taxable property of said separate school district No. 1, of the incorporated village of Vermillion, Erie county, in each year during the running of said bonds, sufficient to pay the interest semi-annually and principal of said bonds as they may become due.

SEC. 3. The board of education of the incorporated village of Vermillion, shall certify to the county auditor the amount of tax necessary, not exceeding the amount specified in the first section of this act, which shall be entered upon the tax duplicate and collected as other taxes are collected as provided by law.

SEC. 4. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 JACOB MUELLER,  
*President of the Senate.*

Passed April 18, 1873.

## AN ACT

Authorizing and empowering the trustees of Jennings township, Van Wert county, and the trustees of Spencer township, Allen county, to remove obstructions in Jennings' creek, in said Spencer township.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of Jennings township, Van Wert county, and the trustees of Spencer township, Allen county, be authorized and empowered to cause to be removed from the bed or channel of Jennings' creek, on sections fourteen and twenty-two in said Spencer township, the rock now obstructing the flow of said creek, and to deepen or change the channel of said creek so as to drain the lands overflowed and injured by said obstruction.

SEC. 2. The township trustees of said Jennings township and the township trustees of said Spencer township, shall jointly estimate and apportion the cost and expense of said improvement according to the advantages accruing in each of said townships by reason of said improvement; the said cost and expense to be paid from the township treasury of each of said townships upon the warrant of the township clerk of the proper township.

SEC. 3. This act shall take effect and be in force from and after its passage.

CHAS. H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
 JACOB MUELLER,  
*President of the Senate.*

Passed April 18, 1873.

## AN ACT

To authorize the Trustees of Warrensville township, Cuyahoga county, Ohio, to levy a tax to construct a Vault or receptacle for the dead.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of Warrensville township, Cuyahoga county, Ohio, be and they are hereby authorized to levy and assess a tax, the amount of

which to be by them determined, and submit the same to a vote as herein provided, for the purpose of constructing a vault or receptacle for the dead for the use of said township. The said vault or receptacle for the dead to be under the control of said trustees or some person appointed by them; Provided, that the trustees shall first submit the question of tax or no tax, for the above named purpose, to the qualified voters of said township at a general election, having given at least ten days' (10) notice of the same in at least three public places in the aforesaid township, which notice shall state the amount to be raised and for what purpose.

SEC. 2. The electors voting at said election shall have written or printed upon their ballots the words "Tax—Yes," or "Tax—No," and if a majority of all the electors voting at said election upon the question submitted shall vote "Tax—Yes," this act shall thereupon be considered and holden to be adopted by such majority.

SEC. 3. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 18, 1873.

## AN ACT

To authorize the Trustees of Jackson township, Crawford county, Ohio, to purchase a site and erect a Town Hall thereon.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio.* That the trustees of Jackson township, Crawford county, Ohio, be and they are hereby authorized to appropriate any money now in the said township treasury, not otherwise appropriated, for the purpose of purchasing a site and erecting a town hall thereon.

SEC. 2. That if the moneys in the said treasury shall be insufficient to purchase said site, and erect said town hall thereon, the said trustees shall be authorized to borrow an amount sufficient to complete said building, at a rate of interest not to exceed eight per cent. per annum; Provided, that the cost of said building and site shall not exceed the sum of ten thousand dollars; and provided further, that the proposition to build shall be submitted to a vote of the qualified electors of said township.

SEC. 3. The electors voting at said election shall have written or printed upon their ballots the words "Tax for Town Hall—Yes," or "Tax for Town Hall—No;" and if a majority of all the electors voting at said election upon the question submitted shall vote "Tax—Yes," this act shall thereupon be considered and holden to be adopted by such majority.

SEC. 4. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 19, 1873.

## AN ACT

To authorize the Auditor and Commissioners of Gallia county to settle and compromise a claim for escheated land sold in said county.

WHEREAS, On the eleventh day of February, A.D. 1860, the auditor of said Gallia county, by order of the court of common pleas of said county, did sell to one Charles Tapping the following described tract of land, to wit: Part of the northeast quarter section No. 33, town No. 6, of range No. 15, in Gallia county, and state of Ohio, for the sum of seven hundred and twenty-one dollars, which said land had escheated to the state of Ohio; and

WHEREAS, Only one hundred and fifty dollars of the purchase money thereof has been paid, and the balance of the purchase money, together with the accruing interest, being more than the present value of said land, and it would be inequitable to exact the whole amount thereof from said purchaser; therefore

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the auditor and commissioners of said Gallia county be and they are hereby authorized and empowered to settle and compromise with said purchaser upon such terms and conditions, and for such sum of money as they may deem just and equitable.

SEC. 2. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed April 22, 1873.

## AN ACT

To authorize the Board of Education of separate school district number one of Ridge township, Van Wert county, Ohio, to borrow money and issue bonds for purchasing a site and building a School House in said separate school district.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of separate school district number one of Ridge township, Van Wert county, Ohio, be and they are hereby authorized to borrow money, not to exceed in amount the sum of two thousand dollars, for the purpose of purchasing a site and erecting a school-house thereon.

SEC. 2. That for the purpose aforesaid the said board are hereby authorized and empowered to issue bonds, to be signed by the president and attested by the clerk of said board, in such proportion as the board may stipulate, each bearing interest at a rate not exceeding eight per cent. per annum; said bonds to be payable at any time within five years: Provided, that said bonds shall not be sold for less than their par value.

SEC. 3. The said board of education are hereby empowered to levy a tax annually on all the taxable property of said separate school district, sufficient to pay said bonds, together with the interest thereon, as they shall fall due, which levy shall be placed on the tax duplicate by the auditor of said county, and collected as other taxes.

SEC. 4. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 JACOB MUELLER,  
*President of the Senate.*

Passed April 24, 1873.

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### AN ACT

To authorize the commissioners of Coshocton county to build a Bridge.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Coshocton county be and they are hereby authorized to levy a tax on the taxable property of said county, for the purpose of building a bridge across the Muskingum river at Morris's Ford, about three miles below the town of Coshocton.

SEC. 2. That said county commissioners shall be governed in the erection of said bridge by the act amending section seven Ohio Laws, volume 68, page 21, passed February 16, 1871.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 JACOB MUELLER,  
*President of the Senate.*

Passed April 24, 1873.

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### AN ACT

For the relief of Alvaro A. Thurstin, Treasurer of Center township, Wood county, Ohio.

WHEREAS, On the night of the 6th of May, 1872, the dry-goods store of Alvaro A. Thurstin, treasurer of Center township, Wood county, Ohio, was burglariously entered, and his safe in said store blown up and broken to pieces, in which the money belonging to said township, to the amount of two hundred and three dollars, which was then and there stolen therefrom, which sum so stolen has been paid by said treasurer to said township; and,

WHEREAS, A large number of the citizens of said township, by their petition, and also by the affidavits of a large number of respectable citi-

zens of said township, represent to this general assembly that said robbery was not due to any fault or negligence on the part of said Alvaro A. Thurstin, or any person in his employ; and,

WHEREAS, Said petitioners ask that said sum be refunded; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of said Center township, Wood county, Ohio, be and they are hereby authorized to cause to be levied upon the taxable property of said township a tax sufficient in amount to refund to said Alvaro A. Thurstin the sum of two hundred and three dollars, the sum so as aforesaid stolen from him: Provided, however, that at the first regular meeting of the trustees of said township after the passage of this act, said trustees shall carefully examine all the facts and circumstances of the aforesaid alleged robbery, and if in their opinion said robbery was committed and said money stolen without any fault or neglect on the part of said treasurer, then and in that case said tax shall be levied as aforesaid; and provided further, that the question be submitted to the electors of said township at the election to be holden therein on the second Tuesday of October, 1873, and if a majority of said electors vote in favor of refunding said money, then the said trustees shall pay to the said Alvaro A. Thurstin the sum of two hundred and three dollars so soon as the money shall be collected by the county treasurer from the tax levied by the trustees aforesaid.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed April 24, 1873.

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## AN ACT

To authorize the Board of Education of Separate School District No. 1, Salem township, Washington county, Ohio, to purchase a site and build a school-house in said district.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of separate school district No. 1, Salem township, Washington county, Ohio, be and it is hereby authorized to issue bonds in an amount not exceeding three thousand dollars, for the purpose of purchasing a site and building a school house in said separate school district, and at a rate of interest not exceeding eight per cent. per annum, and said bonds to be payable in equal annual payments, from one to six years inclusive: Provided, that said bonds shall not be sold for less than their par value.

SEC. 2. The said board of education is hereby authorized and required to levy on the taxable property of said separate school district No. 1, Salem township, Washington county, Ohio, in addition to the amount now authorized by law, such further per centum as may be necessary,

and no more, to pay the principal and interest on the bonds authorized by this act.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 JACOB MUELLER,  
*President of the Senate.*

Passed April 24, 1873.

## AN ACT

To authorize the trustees of Harrison township, Van Wert county, Ohio, to levy a tax to pay bounties to certain volunteers

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of Harrison township, Van Wert county, Ohio, are hereby authorized in the year 1873 or 1874 to levy a tax upon the taxable property within said township, for the purpose of raising a fund to pay bounties to volunteers who enlisted in the service of the United States under either of the requisitions of the president in October, 1863, or February, 1864, to whom the trustees of said township agreed to pay a bounty of seventy-five dollars each, and who have never received the same.

SEC. 2. No greater amount of tax shall be levied under the authority of this act upon the property of said townships by the trustees thereof, than shall be necessary to raise a fund equal to seventy-five dollars for each volunteer described in the first section of this act, and interest thereon at the rate of six per cent. per annum from the time the trustees of said township agreed to pay said bounties.

SEC. 3. All taxes levied under this act shall be certified to the county auditor and placed upon the tax duplicate as other taxes against the same taxable property, and be styled a special bounty fund to be collected as other taxes.

SEC. 4. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 JACOB MUELLER,  
*President of the Senate.*

Passed April 24, 1873.

## AN ACT

To authorize the one hundred and sixty-fifth Division of the Sons of Temperance in the town of Weymouth, township of Medina and county of Medina, to sell and convey their hall and building for school purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the division of the Sons of Temperance, known as Weymouth Divis

ion number one hundred and sixty-five, situated in the village of Weymouth, township of Medina and county of Medina, be and they are hereby authorized to sell and convey their building or hall and real estate for school or other purposes: Provided, that the unanimous consent of the members of said division be obtained thereto.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 25, 1873.

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## AN ACT

For the relief of John A. Lloyd, Treasurer of Raccoon township, Gallia county.

WHEREAS, By the partial destruction of the village of Centerville, Raccoon township, Gallia county, by fire, on the night of the 17th of March, 1873, the store and office of John A. Lloyd, treasurer of said township, was burned and totally destroyed, together with their contents, among which were moneys to the amount of about one thousand dollars, funds belonging to said township; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the township trustees of Raccoon township, in the county of Gallia, after having first ascertained the full amount of the loss of public funds by reason of the fire at Centerville, in said county, on the night of the 17th of March, 1873, are hereby authorized to submit to the qualified electors of said township, at a special election for the purpose by them ordered, after twenty days' public notice thereof, or at the next general October election, the question of releasing John A. Lloyd, treasurer of said township and his sureties from the loss so found to exist.

SEC. 2. That if a majority of all the votes cast at said election shall be in favor of said release, then said trustees and board of education shall release John A. Lloyd and his sureties from all liability arising from the loss of public funds at said fire.

SEC. 3. This act shall take effect on its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 25, 1873.



## AN ACT

To amend section two (2) of an act passed April 10, 1872, entitled an act to amend an entitled "An act to authorize the council of the incorporated village of Middletown, Butler county, Ohio, to borrow money for the construction of water-works for said village, for fire and for other purposes, passed March 29, 1872." (69 O. L., 233.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section two of the above named act be so amended as to read as follows:

Section 2. That for the purpose of paying said bonds and the interest thereon as the same may become due, or redeeming the same earlier, said council shall be and are hereby authorized to levy a tax annually upon all the taxable property within said village, not exceeding three and one-half mills on the dollar in any one year: Provided, that no such loan shall be made, bonds issued, or tax levied, unless the qualified voters of said village shall, at a special election to be held, as hereinafter provided, approved by a majority of the voters of said village voting at such special election, one or the other of the following propositions, namely: either first, to borrow seventy-five thousand dollars for water-works, or second, to borrow twenty-five thousand dollars for steam fire engines and other apparatus for protection against fire; in either case the moneys arising from the tax levied under the act to which this is amendatory to be used for the purpose so appropriated by said voters, and in reduction to that extent of the amount so authorized to be borrowed. Said special election shall be held at the usual place of holding elections in said village, at any time after ten days' notice thereof being given by the mayor of said village, in the way provided for notice of other municipal elections, and as to time and manner of opening and closing the polls, keeping poll-book, voting and qualification of voters, judges and clerks, and in all other respects, shall be held and conducted as provided for by and in accordance with the law regulating the regular municipal elections in said village, but each voter may vote in the same ballot on either or both of said propositions. Those voting in favor of said loan for water-works, having printed or written on their ballots the words "\$75,000 for water-works—Yes," and those against, "\$75,000 for water-works—No;" and those voting in favor of said loan for steam fire engines and other fire apparatus, having printed or written on their ballots the words "\$25,000 for steam fire engines—Yes," and those against, "\$25,000 for steam fire engines—No." And in case a majority of the voters voting at said election shall vote in favor of either of said propositions, then the council of said village may borrow as aforesaid the amounts so approved by said majority vote, less the amount of money arising from said tax already levied, and use the same for the purpose so indicated and approved, and no other; but in case each of said propositions shall be approved by a majority vote of said voters, then only that proposition receiving the larger number of votes shall be considered approved, and the council shall proceed accordingly.

SEC. 2. This act shall take effect and be in force from and after its passage, and said original section two is hereby repealed.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed April 25, 1873.

## AN ACT

To authorize the trustees of Chagrin Falls township, Cuyahoga county, to levy and assess a special tax for purposes therein named.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of Chagrin Falls township, Cuyahoga county, are hereby authorized to levy and assess a special tax upon the taxable property of said township; said levy not to exceed one mill on a dollar in any one year, for the purpose of completing the approaches from the south line of the incorporated village of Chagrin Falls to the cemetery grounds in said township.

SEC. 2. This act shall be in force from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed April 26, 1873.

## AN ACT

To repeal an act entitled "An to authorize the Commissioners of Hamilton county to levy a tax for opening, grading and completing an avenue known as Columbia avenue, extending from Martin street in the city of Cincinnati, to Crawfish creek, passed May 1, 1871, also to authorize the levy of a tax for opening, grading and completing Glenway avenue.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the above recited act be so amended as to read as follows:

That the commissioners of Hamilton county, in addition to their other powers of taxation, be and they are hereby authorized to assess and collect upon the grand levy of the taxable property of said county, a tax not exceeding three-fifths of a mill on the dollar, of which not more than one-fifth of a mill shall be assessed in any one year, to be applied to the opening, grading and completing of an avenue extending from Martin street to Willow street, and known as Columbia avenue, running through the first ward: Provided, that so much of said tax as shall be expended on that portion of said avenue, situated within the corporate limits of said city, shall be expended by and under the direction of the board of city improvements of said city; and provided, further, that the fund raised from said levy shall not be diverted from the object for which this levy is authorized, or transferred to the credit of any other fund, or used for any other purpose whatever. And further provided that Columbia avenue shall be established, opened, graded and completed on such route as may be determined on by the board of city improvements.

SEC. 2. That the commissioners of Hamilton county be and are hereby further authorized and directed to assess and collect upon the grand levy of the taxable property of said county a tax not exceeding one-

fourth of one mill on the dollar, of which not more than one-eighth of a mill shall be assessed and collected in one year, to be applied to the opening, grading and constructing of a thoroughfare to be known as Glenway avenue, commencing on the eastern slope of Price's hill west of Mill creek at the western terminus of eighth street in the city of Cincinnati, and extending by easy curves and grades in a north-easterly direction to the Cincinnati and Warsaw turnpike, where the same runs nearly due west to Cedar grove, and the money so collected shall be expended by and under the direction of the board of city improvements and common council of Cincinnati; provided, that the funds raised from said levy shall not be diverted from the object for which this levy is authorized.

SEC. 3. That said original act be and the same is hereby repealed.

SEC. 4. This act shall take effect from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Passed April 28, 1873.

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## AN ACT

To authorize the board of education of Pleasant township, Clarke county, Ohio, to borrow money and issue bonds for the purpose of building school-houses.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of Pleasant township, Clarke county, Ohio, be and they are hereby authorized and empowered, for the purpose of building school houses in said township, to borrow any sum of money not exceeding ten thousand dollars for a term not to exceed five years and at a rate of interest not to exceed eight per cent. per annum, payable semi-annually; and said board may issue bonds for the payment of the money so borrowed, payable at such times within said five years as they may deem best: Provided that said bonds shall not be sold for less than the par value.

SEC. 2. That said board of education is hereby authorized to pay said bonds and interest at maturity, from the taxes which shall be levied and collected on the property in said township, as provided by law.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed April 29, 1873.

## AN ACT

To amend section two of "An act to authorize the Board of Education of the incorporated village of Celina, in Mercer county, to borrow money and issue bonds to build a school-house or build additions to the school-house in said village," passed and took effect April 27, 1872. (O. L. vol. 69, page 277.)

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section two of the above recited act be amended so as to read as follows:

Section 2. That said board of education shall have power to issue bonds of said village and territory thereto annexed for school purposes, for sums not less than one hundred dollars each, bearing interest at a rate not exceeding eight per cent. per annum, payable annually, and conditioned to be paid at such times and in such proportions as said board of education may stipulate therein, but redeemable at the pleasure of said board, in the aggregate not to exceed twenty-five thousand dollars: Provided, said bonds shall not be disposed of for less than their par value; said bonds to be signed by the president of said board and countersigned by the secretary, who shall also keep a record of the same.

SEC. 2. That said section two be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed April 29, 1873.

## AN ACT

To authorize the County Commissioners of Carroll county to invest a portion of the Relief Fund in United States bonds or other good securities.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the county commissioners of Carroll county, with the consent of the prosecuting attorney, be and they are hereby authorized to invest the relief fund of said county in United States bonds or other good securities, for the benefit of said fund; Provided, that there shall remain in the county treasury moneys belonging to said fund sufficient to meet the ordinary demands on the same.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed April 29, 1873.

## AN ACT

To authorize the board of education of Washington township, Lucas county, Ohio, to transfer funds from the treasury for township school fund, to the school-house fund of said township.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of Washington township, Lucas county, Ohio are hereby authorized to transfer, permanently, eight hundred and ninety-two dollars from the township school fund to the township school-house fund.

SEC. 2. This act shall take effect and be in force from its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 29, 1873.

## AN ACT

Supplementary to an act entitled "An act authorizing the County Commissioners of Lake county to build a County Infirmary, and to issue bonds therefor," passed March 6, 1873.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That before the county commissioners shall issue any bonds as provided in the act to which this is supplementary, they shall at some regular election or special election called for that purpose, of which thirty days' notice shall be given in at least two newspapers of general circulation published in said county, submit the question of building said infirmary to the qualified electors of said county.

SEC. 2. This act shall take effect on and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 29, 1873.

## AN ACT

Authorizing the trustees of Perry township, Lake county, Ohio, to assume control of the local cemeteries in said township.

SECTION. 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of the township of Perry, Lake county, Ohio, be and hereby are authorized to take charge of local public cemeteries in said township, with authority to order the discontinuance of burials within the same, if, in their opinion, the public interest demands it; and upon the

written notice of at least thirty days to the parties in interest to remove the bodies of their friends to the Central Cemetery in said township, where shall be provided, free of cost, suitable places for their interment; and in case of refusal or neglect of said parties to remove said bodies, then the trustees are hereby authorized to remove the same, with all monuments and tombstones to said Central Cemetery; and after any such ground shall be vacated, and the bodies, monuments and tombstones removed, they may sell such vacated grounds and put the proceeds thereof in the township treasury to, so far as may be, pay the expenses of the removal and improving the said Central Cemetery.

SEC. 2. This act shall take effect and be in force on and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 29, 1873.

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#### AN ACT

To authorize the Board of Education of Monroe township, Adams county, Ohio, to levy a special tax to pay an existing indebtedness.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of Monroe township, Adams county, Ohio, be and it is hereby authorized to levy a special tax on the taxable property in said township for the years 1873 and 1874, for the purpose of enabling said board to pay its existing indebtedness; which levy shall be certified to the county auditor and collected as other taxes.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 29, 1873.

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#### AN ACT

To authorize the township trustees of Sylvania township, in the county of Lucas, in the State of Ohio, to sell township cemetery grounds, and to purchase other grounds for township cemetery purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the township trustees of Sylvania township, in the county of Lucas, are hereby authorized and empowered to sell and convey, by deed, the

parcel of ground situate in said township, now and heretofore known as the township cemetery, and to apply the proceeds of said sale towards the purchase of other grounds to be used as a township cemetery.

SEC. 2. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed May 1, 1873.

## AN ACT

Setting over part of the Hopkinsville Special School District to the Deerfield School District, in Warren county.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the line between the Hopkinsville special school district in Hamilton township, and the Deerfield school district in Union township, Warren county, be and is hereby changed as follows: Commencing on said line at the "Upper bridge" across the Little Miami river, and running west on the north line of the Little Miami railroad to the Miami river, at west line of lands of S. M. Highway, and there intersect the original line between said school districts. All assessments heretofore made and not collected, and all assessments hereafter made for school purposes, on the property in the territory herein set over, shall be paid to the Deerfield school district.

SEC. 2. This act shall take effect on its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed May 1, 1873.

## AN ACT

To authorize the Trustees of Delaware township, Delaware county, Ohio, to borrow money to assist in building a bridge.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of Delaware township, Delaware county, Ohio, be and they are hereby authorized, for the purpose of assisting in building a bridge across the Olentangy river within said township, with the view of uniting two school districts, to borrow the sum of one thousand dollars, and at a rate of interest not to exceed eight per cent. per annum, payable annually, and said trustees may issue their bonds for the payment of the money so borrowed, payable at such times within five years as they shall deem best.

SEC. 2. For the purpose of paying said bonds, with the interest, as the same may become due, the trustees of said township of Delaware are hereby authorized and empowered to levy a tax upon all the taxable property of said township, both real and personal, at such times and in such amounts as may be necessary, in the year 1873, 1874, 1875, 1876 and 1877, and the same to be certified by said trustees to the county auditor, by whom the same shall be entered upon the duplicate of said county, and collected as other taxes, and the money so raised shall be paid over to the treasurer of said township to be paid out by him on the order of the township trustees certified by the township clerk.

SEC. 3. The bonds authorized to be issued by this act shall be signed by the entire board of trustees and attested by the township clerk, who shall also keep a record of the same.

SEC. 4. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed May 1, 1873.

## AN ACT

To amend section two of an act passed April 2, 1870, "To authorize the board of education of the township of Richfield, in the county of Summit, and State of Ohio, to borrow money and construct a central high-school building."

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the second section of the above recited act shall be so amended as to read as follows:

Section 2. That said board of education is hereby authorized, whenever it shall, in their opinion, become necessary to levy a tax to pay said bonds or the interest thereon, to certify that fact to the auditor of said Summit county; and said auditor shall cause such sum so certified by said board to be necessary, to be levied upon the taxable property of said township, except sub-district number seven, in said township, and the same shall be collected as other school taxes are or may be, and paid to the treasurer or other proper officer of said board: Provided, that said sum so levied shall not exceed, in any one year, five mills on the dollar of the valuation of the taxable property of said township, in addition to that now authorized by law to be raised for school and school-house purposes.

SEC. 2. Section two of the above named act is hereby repealed.

SEC. 3. This act shall take effect on its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed May 1, 1873.



## AN ACT

To change the name of the Second Congregational Society of Akron, Summit county, Ohio.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the name of the Second Congregational Society of Akron, Summit county, Ohio, be changed to Congregational Society of Akron.

SEC. 2. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed May 1, 1873.

## AN ACT

To authorize the Commissioners of Hamilton county to levy a tax for further improving the course of Mill creek.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Hamilton county be and they hereby are authorized to levy at their June session, A.D. 1873, an additional tax not exceeding one-twentieth of one mill (1-20) on the dollar on the taxable property of said county, for the purpose of improving the course of and straightening Mill creek north of Gest street, in the city of Cincinnati, Ohio: Provided, that said levy shall not be made until the owners of all property abutting upon said improvement shall have filed with said commissioners an obligation, in writing, to the effect that one-fourth of all the cost of said improvement shall be borne by them.

SEC. 2. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed May 1, 1873.

## AN ACT

To authorize the County Commissioners of Muskingum county to issue bonds to build a bridge.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the county commissioners of Muskingum county be and they are hereby authorized to issue the bonds of the said county, in the aggregate not exceeding thirty thousand dollars, no one bond so to be issued to be

for more than five thousand dollars nor for less than one hundred dollars, the denominations to be determined by the said county commissioners within said limitations; said bonds shall bear interest not exceeding eight per centum per annum, payable semi-annually: Provided, that none of said bonds shall be disposed of for less than their par value, and none of said bonds shall be payable at a day later than January 1st, A.D. 1882.

SEC. 2. Said bonds shall be signed by the county commissioners of the said county and countersigned by the county auditor of the said county, and the said bonds and their proceeds shall be applied to the building of a bridge across the Muskingum river at the village of Taylorsville, in said county, and to no other purpose.

SEC. 3. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed May 1, 1873.

### AN ACT

To authorize the trustees of Poland township, Mahoning county, to levy a tax for certain purpose mentioned therein.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of Poland township, Mahoning county, be and they are hereby authorized to levy a tax, the amount of which to be by them determined, and submit the same to a vote as herein provided, for the purpose of buying a site and building thereon a town hall in the village of Lowelville, in the first election precinct of said township, and the said tax to be levied on the taxable property within the said first election precinct, and the same to be certified by said trustees to the county auditor, by whom the same shall be entered upon the duplicate of said county and collected as other taxes; and the same and the money so raised shall be paid over to the treasurer of said township of Poland, to be paid out by him on the order of the township trustees, certified by the township clerk for the purpose above mentioned: Provided, that the trustees shall first submit the question of tax or no tax for the above named purpose to the qualified electors of said first election precinct at a general election, having given at least twenty days notice of the same in at least three public places in said precinct, which notice shall state the amount to be raised and for what purpose.

SEC. 2. The electors voting at said election, shall have written or printed on their ballots the words "Tax for town hall—Yes;" or "Tax for town hall—No;" and if a majority of all the electors voting at said election upon the question submitted shall vote "Tax town hall—Yes;" then said trustees may assess, levy and collect the tax as aforesaid, and proceed as herein before directed, otherwise no such tax shall be levied or collected.

SEC. 3. This act shall take effect and be in force on and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*

*President of the Senate.*

Passed ———, 1873.

## AN ACT

To create a Sub-School District in Hopewell township, in Muskingum county.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the territory hereinafter named be and the same is hereby created and declared to constitute a sub-school district in the county of Muskingum, to-wit: commencing at the northwest corner of the farm owned and occupied by Basil Cromer, on the north line of said Hopewell township line, thence south one mile, thence east to Licking creek, thence up said creek to the north line of said township, thence west on said line of said Hopewell township, to the place of beginning.

SEC. 2. Said sub-school district shall be organized and in all respects governed by the laws now in force for the organization, supervision and maintenance of common schools in the state of Ohio.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed May 3, 1873.

## AN ACT

To extend the time for payment of school lands in section sixteen, in Ludlow township, Washington county, Ohio.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That a further period of six years, from the day the respective installments become due, be and the same is hereby given to the purchaser of land in school section number sixteen, in Ludlow township, Washington county, Ohio, for the payment of the principal of the purchase money thereof; provided, that the interest and taxes thereon be punctually paid according to law; and provided further, that the several purchasers of said land shall give security for the payment of the principal of said purchase money to the acceptance of the auditor of said Washington county.

SEC. 2. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed May 3, 1873.

## AN ACT

To authorize the board of education of the Union School of the village of Dresden, Muskingum county, Ohio, to purchase additional grounds for school-house site.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of the Union School of the village of Dresden, Muskingum county, Ohio, be and they are hereby authorized and empowered to borrow the sum of five hundred dollars for the purpose of purchasing additional grounds to the school-house site for the use of said district, and to issue their bonds for said sum, bearing interest at the rate of eight per cent. per annum, payable semi-annually; said bonds to be payable at any time within three years from their date, at the option of said board of education, and to be due and payable in three years from their date.

SEC. 2. That said board of education be and they are hereby authorized and required to pay the principal and interest of said bonds as the same may become due, from taxes levied and collected from said district as provided by law.

SEC. 3. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed May 3, 1873.

## AN ACT

To authorize the board of education of the township of Brecksville, Cuyahoga county, to levy and assess a tax for purposes therein named.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of the township of Brecksville, Cuyahoga county, are hereby authorized to levy and assess a tax upon the taxable property in said township, for the purpose of completing the construction of a school-house now in process of erection in sub-district No. 2, in said township, such levy not to exceed in the aggregate the sum of six hundred dollars.

SEC. 2. This act shall be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed May 3, 1873.

## AN ACT

To authorize the city council of the city of Zanesville, Ohio, to issue bonds and borrow money.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the city council of the city of Zanesville, in Muskingum county, Ohio, be and is hereby authorized and empowered to issue bonds not exceeding the sum of seventy-four thousand dollars, bearing a rate of interest not to exceed eight per centum per annum, payable semi-annually, and to be of such denomination as said council by ordinance shall provide, not less than one hundred dollars each, which bonds shall be made payable at such time as said council shall determine, not exceeding fifteen years after date, and shall not be sold for less than their par value, and the money arising from the sale of said bonds shall be applied to paying off and funding the floating and unfunded debts of the said city, and for no other purpose whatever.

SEC. 2. That said city council shall have power, and it is hereby made the duty of said council after the issuing of said bonds, to levy a tax on the taxable property of said city, if necessary, in addition to the rate now authorized by law in each year, during the running of such bonds, sufficient to pay the interest and ultimately to pay the principal bonds at maturity, and the money arising from such tax shall be applied by said council to the payment of the interest and principal of said bonds, and for no other purpose.

SEC. 3. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed May 3, 1873.

## AN ACT

To authorize the Trustees of Dover township, Cuyahoga county, Ohio, to contract with a certain party therein named in the construction of a township hall.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio* That it shall be lawful for the trustees of Dover township, Cuyahoga county, Ohio, if they see proper so to do, to construct a township hall for the use of said township, also to accommodate Dover Lodge No. 393 of the Independent Order of Odd Fellows of the State of Ohio, located at said township, with suitable rooms and apartments therein, upon such terms and conditions as to them shall appear equitable and just.

SEC. 2. That when said parties shall agree upon the terms and conditions in regard to the construction of said township hall, and assignments of the various apartments for their accommodation, they shall reduce their said agreement to writing, under the hands and seals of said trustees of

said township and under the hands and seals of the trustees of said lodge or its principal officers, and acknowledge the same before some competent person authorized by law to take acknowledgments; and when so executed and acknowledged, they shall cause the same to be entered of record in the recorder's office of said Cuyahoga county, and the same thereafter shall be conclusive evidence of the terms of their said agreement and the rights of the said parties: Provided, that the portion of said building or hall erected and owned by said lodge, shall be appraised and taxed as other private property.

SEC. 3. That for the purpose of erecting said township hall, the trustees of said township are hereby authorized and empowered to issue bonds of said township for any sum not to exceed the sum of two thousand dollars, one half of said bonds to be paid in the year eighteen hundred and seventy four, and one half in the year eighteen hundred and seventy five; said bonds to be of not less than fifty dollars each, and to bear interest not to exceed eight per centum per annum, and not to be sold for less than their par value.

SEC. 4. This act shall take effect and be in force from and after its passage.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed May 3, 1873.

## AN ACT

To authorize the trustees of original township 2, range 3, in Butler county, Ohio, to have appraised and sold a tract of about five acres of land in school section 16, in said township and range.

WHEREAS, A portion of school section No. 16, township 2, range 3, in Butler county, Ohio, consisting of about five acres, remains unsold and is of small value; and,

WHEREAS, The costs and expenses of selling the same, under the general law, would consume the proceeds thereof; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of original township (2) two, range (3) three, Butler county, Ohio, be and they are hereby authorized to have said tract of about five acres, in the north-east corner of said section 16, township 2, range 3, surveyed, and cause the same to be appraised, by the oaths of three disinterested freeholders of said county, not of said township, to be chosen by said trustees, subject to and independent of the improvements, buildings, &c., on said premises; and that after due notice of sale, by publication in two newspapers of general circulation in said county, for a period of thirty days immediately preceding the day of sale, said trustees shall proceed to sell said tract of about five acres at public auction, on the premises, on such terms as to payment as they may direct, subject to and independent of said improvements, to the highest bidder, at a price not less than two-thirds of its appraised value.

**SEC. 2.** Said trustees of said township, after the payment of all costs and expenses of said sale and proceedings, shall pay over the residue of said purchase money to the treasurer of said Butler county, to be by him paid into the state treasury, to be applied to the irreducible school fund, for the benefit of said township, as other school funds arising from the sale of section sixteen, as school funds; and when such payment is made, the auditor of said county shall issue to the purchaser or purchasers of said premises a final certificate, containing the fact of payment in full, and that said purchaser or purchasers are entitled to receive from the state of Ohio a deed in fee simple for said premises; and on the presentation of this certificate to the proper officer or officers, said purchaser or purchasers shall receive a deed for said premises, in accordance with section XVIII. of the act of April 16, 1852, entitled an act to regulate the sale of school lands and the surrender of permanent leases thereto.

**SEC. 3.** This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed May 6, 1873.

## AN ACT

To authorize the trustees of Hinckley township, Medina county, Ohio, to sell and convey a certain tract or parcel of land.

**SECTION 1.** *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of Hinckley township, Medina county, Ohio, are hereby authorized to sell and convey the following described tract or parcel of land, situated at or near the center of said Hinckley township, and known as part of lot No. 44 of said township, containing twenty-five one-hundredths of an acre, more or less, and being further known as having been sold by Wetmore Bros. to individuals, and by said individuals deeded to the trustees of said township for town hall purposes; the proceeds of such sale to be paid into the treasury of the township for township purposes.

**SEC. 2.** This act to take effect on its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed May 5, 1873.

## AN ACT

To authorize the board of education of Nile township, Scioto county, Ohio, to issue bonds to pay an existing indebtedness, and levy a tax for payment of same.

**SECTION 1.** *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of Nile township, Scioto county, Ohio, be

and they are hereby authorized to issue their bonds, and borrow money thereon, for a sum not exceeding twenty-five hundred dollars, for the purpose of paying an existing indebtedness contracted for school purposes; said bonds to be signed by the president and secretary of said board of education, and to be in sums of not less than one hundred dollars nor more than five hundred dollars each; said bonds to be payable at any time not exceeding five years, at the discretion of the board, with interest at the rate not to exceed eight per cent. per annum: Provided, that said bonds shall not be sold for less than their par value.

SEC. 2. That for the purpose of paying said bonds and the interest thereon as the same shall become due, the said board of education are hereby authorized and empowered to levy a tax on the taxable property of said township, in such amount annually as will be sufficient to pay the principal of such bonds as may fall due in each year, together with the interest on all the unpaid bonds so issued; and the money so raised shall not be used for any other purpose than to pay said bonds and interest.

SEC. 3. The board of education of said township shall certify to the county auditor the amount of tax necessary, not exceeding the amount specified in the first section of this act, which shall be entered upon the tax duplicate, and collected as other taxes are collected, as provided by law.

SEC. 4. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Passed May 5, 1873.

## AN ACT

For the relief of Henry Fish, treasurer of the incorporated village of Brooklyn, Cuyahoga county, Ohio.

WHEREAS, On the sixth day of March, A.D. 1873, Henry Fish was the duly elected and qualified treasurer of the incorporated village of Brooklyn, Cuyahoga county, Ohio, and as such treasurer had on deposit in the banking house of Price Brothers, in the city of Cleveland, three thousand nine hundred and ninety-two and 06-100 dollars, the money of said incorporated village, and on the said sixth day of March, 1873, said Price Brothers failed, and made an assignment for the benefit of their creditors, and their assets are not sufficient to pay more than fifty cents of each dollar of their indebtedness, and the said Henry Fish is not able, out of his own funds, to pay the deficiency to the village; and,

WHEREAS, The tax-payers of said incorporated village, by their petition to this General Assembly, represent that the said Henry Fish acted in a proper manner, and in good faith, in depositing such money, and was in no manner culpable or negligent in so doing, and ask that this General Assembly extend relief to the said Henry Fish: therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the council of said incorporated village of Brooklyn are hereby



authorized to release the said Henry Fish and his sureties on his official bond from the payment of the sum which shall be deficient after the payment by the assignee to the said Henry Fish the per cent. collected from the estate of said Price Brothers, and that said release shall be entered on the journal of said council: Provided, that before said release shall be made the question shall be submitted to the qualified electors of said village, at some general election, or a special election, notice of which shall have been given at least twenty days prior thereto, by putting up posters in three public places in said village, and a majority of the electors voting at said election shall vote in favor thereof.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed May 5, 1873.

## AN ACT

To authorize Daniel Bender to surrender his lease, and receive a deed for a tract of fifty acres of land in school section sixteen, township three and range three, between the Miami rivers, Butler county, Ohio.

WHEREAS, An act was passed by the legislature of Ohio, on the 19th of February, 1846, (see page 126, local laws,) authorizing the lessees of school section sixteen, township three, and range three, between the Miami rivers, in Butler county, Ohio, to surrender their leases, and take deeds for said lands in pursuance to the laws then in force; and

WHEREAS, In pursuance to said act, a vote was duly taken of the legal voters of said township, which resulted in favor of the surrender of said leases, and in pursuance to certain proceedings in the court of common pleas of Butler county, Ohio, at September term, 1846, in which all said lessees were petitioners, the several lots (numbered from one to eight inclusive,) were duly appraised, and the appraisment confirmed; and

WHEREAS, All the said lessees, (except Robert S. Kenox, who held a permanent lease for a tract of about fifty acres off the east side of lot numbered seven (7) in said section,) surrendered their leases and paid for their respective lands at said valuation, and obtained deeds in fee simple therefor; and

WHEREAS, The said lease of Robert S. Kenox which he neglected to surrender, is now held by Daniel Bender, who is anxious to surrender said lease, and receive a deed in fee simple for said land at the said valuation, and without any further vote being taken; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That Daniel Bender be and he is hereby authorized to surrender his permanent lease for said tract of about fifty acres off the east side of said lot number seven (7) in said section sixteen, by indorsement thereon,

attested by the auditor of said county to the state of Ohio, for the benefit of said township, without any further vote of the legal voters being taken, upon the terms and manner of appraisement and payment provided by existing laws; and upon full payment being made, to receive from the auditor of the county a final certificate showing such payment, and that said Daniel Bender is entitled to receive from the state of Ohio a deed in fee simple for said premises; and upon filing such final certificate with the auditor of state, said Daniel Bender shall receive a deed in fee simple for said land, signed by the governor of the state of Ohio, sealed with the great seal of the state, and countersigned and recorded by the secretary of state as provided by existing laws.

SEC. 2. This act shall take effect and be in force from and after its passage.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed May 5, 1873.

# JOINT RESOLUTIONS.

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## JOINT RESOLUTION

Providing for the appointment of a joint select committee to inform the Governor that General Assembly is in session.

*Resolved by the General Assembly of the State of Ohio, That a committee of two on part of the senate, and three on part of the house, be appointed to wait on the governor and inform him that the general assembly is now in session, and ready to receive any communication he may have to transmit.*

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Adopted January 2, 1873.

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## JOINT RESOLUTION

Providing for a joint convention of the Senate and House of Representatives to canvass the vote for Secretary of State.

*Resolved by the General Assembly of the State of Ohio, That the houses of the general assembly meet in joint convention in the hall of the house of representatives, on Thursday, January 9th, at 11 o'clock A. M., to count the vote for secretary of state at the election held on the second Tuesday of October, 1872.*

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Adopted January 6, 1873.

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## JOINT RESOLUTION

Providing for the appointment of a joint select committee to investigate and report as to the best manner of collecting and disbursing taxes.

**WHEREAS, As a consequence of the present system of legislation of this state on the subject, large sums of money collected from the people for taxes and assessments remain locked up in the several county treas-**

ries, amounting, in the aggregate, to millions of dollars, for several months in each year and to a very considerable sum most of the entire year, being thereby wholly withdrawn from circulation, rendered unproductive and contributing to the complaint of scarcity of money and financial embarrassments, as well as constituting a standing temptation to frauds, embezzlements and defalcations on the part of public officers and a general invitation to burglars and safe-blowers, thereby rendering the public money insecure, and some adequate remedy therefor is generally demanded by the people; therefore

*Resolved by the General Assembly of the State of Ohio, That a joint select committee, consisting of three on the part of the senate and five on the part of the house, be appointed to investigate said subject and report at the earliest practicable time, by bill or otherwise, such measures as may be deemed most advisable in the premises.*

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Adopted January 7, 1873.

## JOINT RESOLUTION

Relative to the payment of the two per cent. claim of Ohio.

WHEREAS, By the act of congress entitled "an act to enable the people of the eastern division of the territory northwest of the Ohio river to form a constitution and state government, and for the admission of such state into the Union on the equal footing with the original, and for other purposes," approved April 30th, 1802, and the "act in addition to and in modification of the propositions contained in the above entitled act," approved March 3, 1803, it was provided that five per cent. (one-twentieth) of the net proceeds of the lands lying within said state (Ohio), sold by congress from and after the 30th day of June, 1802, after deducting all expenses incident to the same, shall be expended and applied for the benefit of said state (three per cent. to be applied under the direction of the Legislature of said state in laying out roads within the state), upon the condition that all lands sold by congress within said state after the said 30th day of June should remain exempt from taxation for the term of five years from the day of sale; and,

WHEREAS, The state of Ohio has faithfully and fully performed the said conditions on her part and the government of the United States has received full benefit thereof, but a large part of said fund of five per centum of the net proceeds of said lands as aforesaid, amounting in the aggregate to a very large sum of money, has never been expended or applied for the benefit of the state of Ohio, as required by said act of congress, or paid over to said state; and,

WHEREAS, The congress of the United States, recognizing the fact that the state of Ohio (as well as others provided for by law) was entitled to receive any and all balances of said funds not heretofore paid over to her, on the 3d day of March 1857, passed an act requiring the commissioners of the general land office to state an account between the United States

and the states concerned (including Ohio), for the purpose of ascertaining what sum or sums of money are due said states, heretofore unsettled, and to allow and pay each state such amount as shall thus be found due, estimating all lands and permanent reservations at one dollar and twenty-five cents (\$1.25) per acre; and several of said states have already been paid their claims in full, while the state of Ohio has never received her said claim but is now justly entitled thereto; and,

WHEREAS, A bill providing for the payment of said claims to said state of Ohio, has passed the House of Representatives of the Congress of the United States; therefore,

*Resolved by the General Assembly of the State of Ohio*, That our Senators in Congress be instructed to use all reasonable and honorable exertions to secure the passage by the Senate of said bill so passed by said House Representatives providing for the payment of said claims at the earliest period of time. That the Treasurer of this State be and he is hereby authorized and empowered to receive from the Secretary of the Treasury of the United States, and receipt to him for all money the state of Ohio may be entitled to upon said claim, or that may be hereafter paid thereon, the same being certified unto the State Treasury by the Auditor of State, and the money so paid into the hands of the Treasurer shall remain in the State Treasury until drawn out pursuant to law. That the Governor of this State be and he is hereby instructed to forward a duly authenticated copy of these resolutions to the Secretary of the Treasury of the United States, and one copy to each Senator from Ohio.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Adopted January 11, 1873.

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### JOINT RESOLUTION

Providing for the binding in muslin of the Report of the Secretary of State for 1872.

*Resolved by the General Assembly of the State of Ohio*, That the Supervisor of Public Printing be directed to have the report of the Secretary of State, including the statistics for the year 1872, bound in muslin.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Adopted January 11, 1873.

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### JOINT RESOLUTION

Making inquiry into the cause of the burning of the Northern Ohio Insane Asylum.

WHEREAS, The coroner's jury holding an inquest in last October over the bodies of persons who lost their lives by the burning of the Northern

- Ohio Insane Asylum, charge that the fire originated through the carelessness of the workmen employed, and that sufficient precaution was not taken by those in charge of the work to guard against fire; therefore,

*Resolved by the General Assembly of the State of Ohio,* That it is hereby made the duty of the senate and house committees on benevolent institutions to inquire into the matter immediately and report to the general assembly at their earliest convenience. They are hereby authorized to send for persons and papers.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Adopted January 11, 1873.

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## JOINT RESOLUTION

Relative to preserving the census returns for 1870.

*Resolved by the General Assembly of the State of Ohio,* That the secretary of state is hereby authorized to have bound at the institution for the education of the deaf and dumb the returns of the United States census marshals for Ohio, of the census taken in 1870, in this state.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Adopted January 14, 1873.

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## JOINT RESOLUTION

Relative to procuring flags to be placed over the General Assembly while in session.

*Resolved by General Assembly of the State of Ohio,* That the comptroller of the treasury be authorized and required to procure two new bunting flags to be used in place of those now in use on the state house.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 JACOB MUELLER,  
*President of the Senate.*

Adopted January 16, 1873.

## JOINT RESOLUTION

Relating to the drawing of books from the State Library.

*Resolved by the General Assembly of the State of Ohio,* That in addition to the persons now entitled to draw books from the Ohio State Library, the privileges thereof be and they are hereby extended to the officers and teachers in the benevolent institutions of the State, officers and teachers of the Ohio Agricultural College, officers of the Ohio Penitentiary, ex-officers of the State, ex officers of the General Assembly, persons reporting for the press during the present session of the General Assembly, and officers and members of the Constitutional Convention.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Adopted January, 22, 1873.

## JOINT RESOLUTION

Relative to furnishing certain information therein designated.

*Resolved by the General Assembly of the State of Ohio,* That the several clerks of the courts of common pleas in this state be and they are hereby severally required to furnish to the general assembly without delay, through the secretary of state, a statement showing, under such heads as he in a blank prepared for the purpose shall designate, the total amounts paid out of or into the county treasuries respectively, accruing during the year 1872 on account of grand and petit juries, criminal and civil trials, court costs, expenses and fees. Also a statement showing during said year the number of civil and criminal cases tried, number of second trials, and aggregate amount of judgments, and costs thereof to county and parties, as compared with same at first trials; time ordinarily elapsing after case is brought in common pleas till same is reached in order for trial; and such other facts as said secretary shall call for, tending to show the cost, delay, cumbersomeness or inefficiency of the present judicial system.

*Resolved further,* That said secretary of state shall prepare and transmit to said clerks proper blanks for the information herein required, with the necessary instructions for the filling of the same; and the several county officers are hereby required, on demand, to furnish such clerks any information as to the foregoing matters at their command respectively and not shown by the court records.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Adopted January 27, 1873.

## JOINT RESOLUTION

Providing for the printing of two thousand copies of the Report of the trustees of the Lunatic Asylum at Athens.

*Resolved by the General Assembly of the State of Ohio, That there be printed two thousand copies of the annual report of the trustees of the lunatic asylum at Athens, for the year ending November 15, 1872, six hundred copies for the use of the asylum, and the remainder to be equally divided among the members of the general assembly.*

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Adopted February 1, 1873.

## JOINT RESOLUTION

Relative to the Southern Ohio Lunatic Asylum.

WHEREAS, The small-pox is prevailing in two of the wards of the Southern Lunatic Asylum to an alarming extent, and there is great danger of the whole institution becoming infected; therefore,

*Be it resolved by the General Assembly of the State of Ohio, That the trustees of said asylum be and they are hereby authorized, in their discretion, to purchase a suitable building, with lands adjacent, and fit up the same for a hospital for the treatment of contagious diseases, or make such other comfortable and proper provision for the small-pox patients outside of the asylum building as to them may seem best for the safety of the inmates.*

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Adopted February 1, 1873.

## JOINT RESOLUTION

Relating to memorial to Senators and Representatives in Congress in regard to Soldiers' Pensions.

*Resolved by the General Assembly of the State of Ohio, That the senators and representatives of Ohio in the congress of the United States be, and they are hereby respectfully requested to use all proper exertion to procure the passage of an act granting pensions to all honorably discharged officers and soldiers of the war of 1812, who served in that war for the*



period of fourteen days, and in case of the death of any such officer or soldier, then to the surviving widow without limitation as to the date of her marriage to said officer or soldier.

CHAS. H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
 ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Adopted February 14, 1873.

## JOINT RESOLUTION

Relating to the drawing of books from the State Library.

*Resolved by the General Assembly of the State of Ohio,* That the privilege to take books from the state library, under the rules thereof, be and is hereby accorded to the widows of deceased ex-members of the General Assembly and ex-state officers.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
 ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Adopted February 15, 1873.

## JOINT RESOLUTION

Authorizing the Secretary of State to issue to officers entitled to the same, Swan and Critchfield's revised statutes and Swan and Sayler's supplement to the revised statutes.

*Resolved by the General Assembly of the State of Ohio,* That the Secretary of State, out of any copies in his possession not required by law for other purposes, is hereby authorized to issue one copy each of Swan and Critchfield's revised statutes, and Swan and Sayler's supplement to the revised statutes, to officers entitled to the same, whose copies have been lost or destroyed, without their fault or neglect.

*Resolved,* that before making such issue, the officers so applying therefor shall file with said Secretary of State an affidavit, showing when, where and how the volume or volumes were lost or destroyed.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
 ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Adopted February 15, 1873.

## JOINT RESOLUTION

Relative to the printing and distribution of the Laws passed by the 60th General Assembly.

*Resolved by the General Assembly of the State of Ohio, That the Secretary of State be directed to have the laws of each session of the legislature printed as soon as possible after enactment, in forms of sixteen pages, and that he cause five thousand copies of each form to be distributed as follows: ten copies to each member of the General Assembly; and the remainder he shall cause to be distributed to the County Auditors of the several counties of this state in proportion to their representation in the legislature, said copies to be furnished by the public printer under existing contracts, and out of the number required to be printed by law.*

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Adopted February 15, 1873.

## JOINT RESOLUTION

Providing for the printing, binding and disposition of additional copies of the Report of the Commissioner of Railroads and Telegraph.

*Resolved by the General Assembly of the State of Ohio, That five hundred additional copies of the report for 1872, of the Commissioner of Railroads and Telegraphs, be printed and bound in muslin, for the use of said commissioner.*

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Adopted February 15, 1873.

## JOINT RESOLUTION

Relating to the printing and distribution of additional copies of the Report of the Secretary of State for the year 1872.

*Resolved by the General Assembly of the State of Ohio, That there be printed and bound in cloth fourteen thousand additional copies of the Secretary of State's Report for the year 1872, for the use of and to be equally distributed to the members of the General Assembly. To determine what number of such reports are to be printed in German, it shall be the duty of the Secretary of State to ascertain from each member of this General Assembly what number of the reports he is entitled to receive he*

wishes in the German language. The aggregate amount so determined shall be the number authorized to be printed in German, and they shall be distributed accordingly, and in the manner that each member may indicate to the Secretary of State.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 ALLAN T. BRINSMADE,  
*President pro tem: of the Senate.*

Adopted February 15, 1873.

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## JOINT RESOLUTION

Relative to furnishing paper.

*Resolved by the General Assembly of the State of Ohio,* That the Secretary of State be and he is hereby authorized to purchase a sufficient quantity of super royal paper to provide fly-leaves for volume one of the final Report of the Geological Survey, and that the same be paid for out of the appropriation for stationery and blank books, including printing papers and articles necessary for the General Assembly and public offices in the State House.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 JACOB MUELLER,  
*President of the Senate.*

Adopted February 26, 1873.

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## JOINT RESOLUTION

Providing for the payment of the members of the Finance and Benevolent Committees of the House and Senate for services growing out of the burning of the Northern Ohio Lunatic Asylum.

WHEREAS, On the — day of October, A.D. 1872, the Finance Committees and Committees on Benevolent Institutions of the two Houses of the General Assembly were requested by Governor E. F. Noyes to meet with him in conference, at the Northern Ohio Lunatic Asylum, as to what should be done to aid in rebuilding said asylum and to make provision for the accommodation of the unfortunate inmates who were so suddenly left without suitable accommodations by the burning of said Asylum; and,

WHEREAS, There is no provision of law for paying the members of said committees for the time thus employed, who attended said meeting as aforesaid requested; therefore,

*Resolved by the General Assembly of the State of Ohio,* That the members of the General Assembly composing said committees who were in attend-

ance as aforesaid be and the same are allowed the same per diem and expenses actually incurred, whilst in attendance at said meeting, as is allowed to members of the General Assembly, and the presiding officers of the Senate and House of Representatives be and they are hereby authorized to draw their warrants on the treasury for the sums of money severally due the members of said committees.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 JACOB MUELLER,  
*President of the Senate.*

Passed February 27, 1873.

### JOINT RESOLUTION

Directing the Governor to execute and deliver to one Thomas Dugan a deed for certain real estate.

WHEREAS, Under the authority conferred upon the Attorney General by joint resolution of the General Assembly adopted January 28, 1869, (O. L., Vol. 66, p. 414), the Attorney General has settled with Thomas Dugan, and fixed the amount which said Thomas Dugan ought to pay, in addition to what he has already paid for the interest of the State in said real estate, the sum of five hundred dollars: now, therefore,

*Be it enacted by the General Assembly of the State of Ohio,* That so soon as said Thomas Dugan shall pay to the Attorney General said sum of five hundred dollars, the Governor of the State is hereby directed to execute and deliver to said Thomas Dugan a good and sufficient deed conveying to said Thomas Dugan all and singular the interest of the State in said real estate.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
 ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Adopted March 10, 1873.

### JOINT RESOLUTION

Providing for an examination and report in reference to the State dam across the Miami river, at Troy.

WHEREAS, For several years past, there has been a large deficiency of water in the Miami and Erie canal, requisite for navigation; and

WHEREAS, It is alleged that by the repair of the State dam across the Miami river, at Troy, constructed for the purpose of supplying what is known as Dye's mill-race, (but which is, and ever since 1846, has been adopted and used by the State of Ohio as part of its public works,) a very

largely increased volume of water will be passed into the canal; therefore be it

*Resolved by the General Assembly of the State of Ohio,* That the acting commissioner of the Board of Public Works for the Miami and Erie canal, in connection with the resident engineer, be required to make an examination of said dam and race-way, and report to the General Assembly at its present session, as to the benefits likely to result to the State and the lessees of the public works from improving the same, and as to what repairs are necessary, and the probable cost thereof.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Adopted March 14, 1873.

### JOINT RESOLUTION

Relating to the printing and binding of the report of Ohio Horticultural Society.

*Resolved by the General Assembly of the State of Ohio,* That the Supervisor of State Printing be and he is hereby instructed to cause five hundred copies of the report of the Ohio Horticultural Society for the year 1872, to be printed and bound separate from the agricultural report in pamphlet form, for the use of the members of said society.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Passed March 17, 1873.

### JOINT RESOLUTION

Relative to the purchase of paper for the final report of the Geological Survey.

*Resolved by the General Assembly of the State of Ohio,* That the Secretary of State be and is hereby authorized to purchase in the market a sufficient quantity of paper of a suitable quality, for printing part second of volume first of the final Report of the Geological Survey, and pay for the same out of the appropriation for stationery and blank-books including printing paper, and articles necessary for the General Assembly and public offices in the State House.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Adopted March 28, 1873.

## JOINT RESOLUTION

Authorizing the Governor to appoint commissioners to attend the International Exposition at Vienna, Austria.

*Resolved by the General Assembly of the State of Ohio,* That the Governor of the State of be and he is hereby authorized to appoint seven commissioners to attend as representatives of the State of Ohio, the International Exposition to be opened during the summer of 1873, at Vienna, Austria, and said commissioners shall serve without compensation from or expense to the State.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Passed April 12, 1873.

## JOINT RESOLUTION

Relative to the removal of the remains of the Hon. James W. Lathrop.

WHEREAS, Hon. James W. Lathrop, a member of the House of Representatives from Stark county, died in this city on the 31st of January, 1828, while in the discharge of his official duty, and was buried in the North Graveyard of Columbus; and

WHEREAS, Said burying ground has ceased to be used for burial purposes, and is about to be appropriated to other uses; therefore

*Resolved by the General Assembly of the State of Ohio,* That a committee of two on the part of the House and one on the part of the Senate be appointed to superintend the removal of the remains of said deceased to Canton, Stark county, and that the expenses incidental to the removal and reinterment be defrayed out of the contingent fund of the General Assembly.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Adopted April 16, 1873.

## JOINT RESOLUTION

Relative to the removal and interment of the remains of the Hon. James Sargeant.

WHEREAS, James Sargeant, a member of the House of Representatives of the State of Ohio from Clermont county, died in this city on the 15th day of February, 1844, while in the discharge of his official duties; and

WHEREAS, Said James Sargeant was buried in the North grave yard of Columbus, Ohio, which is now in a ruinous condition; therefore be it

*Resolved by the General Assembly of the State of Ohio,* That a committee

of two on the part of the house and one on the part of the senate, be appointed to take charge of and remove the body of said Sargent, together with the monument, to —, in Clermont county, and to superintend the interment of the same, and that the expense of the same be paid by the State of Ohio.

CHARLES H. BABCOCK.

*Speaker pro tem. of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Adopted April 17, 1873.

## JOINT RESOLUTION

Providing for the admission of Cyrus Doudell into the State Reform School.

WHEREAS, Cyrus Doudell, of Jefferson county, Ohio, has been sentenced to the state penitentiary for the offense of grand larceny, by the court of common pleas of said county; and

WHEREAS, The judge, who pronounced the sentence, expressed his desire that the sentence should be modified to confinement in the State Reform School, but was unable to make such modification of the sentence in consequence of the said Cyrus Doudell being eighteen years of age; and

WHEREAS, The prosecuting attorney, who appeared for the state in the case, with a number of the jurors, to whom the case was tried, and a large part of the bar of the county, have all expressed the desire that said Doudell might be cared for in the State Reform School, as manifestly in the interest of humanity as well as moral reform; therefore be it

*Resolved by the General Assembly of the State of Ohio,* That the governor be and he is hereby authorized to issue his warrant for the transfer of the said Cyrus Doudell from the Ohio penitentiary to the State Reform School, there to be held and treated under the laws and regulations of said institutions; provided, the governor shall have power to remand the said Cyrus Doudell to the penitentiary at any time when he may be satisfied that he is incorrigible, and the public good so requires, and the time spent at the State Reform School shall be estimated as a part of the time for which said Cyrus Doudell was sentenced.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Adopted April 18, 1873.

## JOINT RESOLUTION

Relating to the disposition of a certain number of copies of the Report of the Secretary of State for 1872.

*Resolved by the General Assembly of the State of Ohio,* That the secretary of state be and he is hereby authorized to retain, from the number of addi-

tional copies of the report of the secretary of state for 1872, already authorized to be printed, five hundred copies for distribution and fifty copies for exchange.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
JACOB MUELLER,  
*President of the Senate.*

Adopted April 22, 1873.

## JOINT RESOLUTION

For the relief of Messrs. Brooks and Blair.

WHEREAS, At the letting of the contract for enlarging the Northern Ohio Lunatic Asylum in 1871, it was found that the proposals of Messrs. Brooks and Blair were lower than any of their competitors by the sum of \$3,262.02, and the said contract was awarded to said Brooks and Blair, and,

WHEREAS, It was afterward discovered that in computing the cost of slating 222 squares at \$14 per square, a clerical error of \$1,000 had been made, in consequence of which error the proposal of Messrs. Brooks and Blair was one thousand dollars lower than it would have been had not said clerical error occurred, and,

WHEREAS, Said Brooks and Blair have faithfully performed their undertaking in constructing the enlargement of said Northern Ohio Lunatic Asylum, and,

WHEREAS, The said sum of one thousand dollars is in equity due said Brooks and Blair and ought to be paid, and,

WHEREAS, The trustees of said Asylum are desirous of paying the same, but believe they have no power so to do; therefore,

*Be it resolved by the General Assembly of the State of Ohio,* That the Trustees of the Northern Ohio Lunatic Asylum, be and they are hereby authorized to pay to Messrs. Brooks and Blair the sum of one thousand dollars, in full satisfaction of their claim as aforesaid for roofing the extension of said asylum.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Adopted April 25, 1873.

## JOINT RESOLUTION

Relative to depositing the instruments of the Geological Corps with the Agricultural and Mechanical College.

*Resolved by the General Assembly of the State of Ohio,* That the State Geological Corps, created by act of general assembly, passed April 3, 1869, shall, upon completion of their surveys, deliver to the trustees of the Ohio Agricultural and Mechanical College all implements, apparatus and math-



ematical instruments, belonging to the state of Ohio, for the use and benefit of said college.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 JACOB MUELLER,  
*President of the Senate.*

Adopted April 28, 1873.

## JOINT RESOLUTION

Relating to State Auditor to prescribe a system of book-keeping for all of the State Institutions.

*Resolved by the General Assembly of the State of Ohio,* That it be and is hereby made the duty of the state auditor to prescribe for all the state institutions a system of accounting and making detailed statements in their annual reports, of the expenditures of the public moneys; and it is hereby made the duty of the trustees or other persons having control of said institutions to conform thereto.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 JACOB MUELLER,  
*President of the Senate.*

Adopted April 28, 1873.

## JOINT RESOLUTION

Providing for obtaining certain information relating to the Courts, for the use of the Constitutional Convention.

*Resolved by the General Assembly of the State of Ohio,* That the several clerks of the courts of record in this state (except of probate and police courts) be and they are hereby severally required to furnish to the secretary of state, for the use of the constitutional convention, the following information:

First—The number of causes commenced in or brought into the several courts of record of their counties in each of the years 1870, 1871 and 1872.

Second—The number of terms of each of said courts held, and the number of days each of said courts was actually engaged in the dispatch of business, in each of said years.

Third—The number of causes for trial at each of said terms, and the number finally disposed of at each term in each of said years.

Fourth—The name of each judge sitting in any of said courts, and the number of days he was actually employed in open court, in the discharge of his duties, in each of said years.

*Resolved further,* That the secretary of state shall prepare and transmit forthwith to said clerks proper blanks for the information herein required, with the necessary instructions for filling the same; and that he be also

required to arrange the information aforesaid, when received, in tabular form, so as to exhibit the same, so far as practicable, separately, for each county, judicial district and sub-division; and the aggregate number of days each judge was engaged in the discharge of his duties in court.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Adopted April 28, 1873.

## JOINT RESOLUTION

Relating to the approval of estimates for Athens Lunatic Asylum.

WHEREAS, The trustees of the Athens Lunatic Asylum, in pursuance of an act entitled "An act prescribing the duties of directors, trustees, commissioners, or other officer or officers to whom is confided the duty of devising and superintending the erection, alteration, addition to or improvement of any state institution, asylum or other improvement," passed April 3, 1868, have prepared an estimate for the grates and mantels necessary for such asylum, and submitted the same for approval of this legislature; therefore,

*Resolved by the General Assembly of the State of Ohio,* That the said estimate be and the same is hereby approved: Provided, that the expenditure for the purpose named shall not exceed fifteen hundred dollars.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Adopted April 29, 1873.

## JOINT RESOLUTION

Relating to a proposed railroad route across the Agricultural and Mechanical College Farm.

*Resolved by the General Assembly of the State of Ohio,* That the board of trustees of the Agricultural and Mechanical College be authorized to contract with the Columbus and Toledo Railroad Company, for a right of way across the farm of said college, for the uses and purposes of said railroad, upon such terms and payment for damages as they shall deem proper: Provided, that no contract shall be made or permission given to construct said road across said farm on a line more than fifty rods east of the easterly bank of the Olentangy river, at the point of intersection with the southern boundary line of said farm, or less than one hundred and ten rods westerly from the college building; and provided, also, that said railroad company shall bind itself to furnish suitable side tracks and

station on or near said farm for the convenience of said college; that on the full payment by the said railroad company of the amount of damages that may be agreed upon, and the execution of a proper contract for sidings and station as before stipulated, to the approval of the attorney general, the governor is authorized to execute a deed for said right of way to said railroad company, for the uses and purposes of its said road.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
 JACOB MUELLER,  
*President of the Senate.*

Adopted May 1, 1873.

### JOINT RESOLUTION.

Relative to instructions to the Auditor of State.

WHEREAS, There are reasons to believe that certain counties have wrongfully retained taxes which should have been paid over to the state; therefore,

*Resolved by the General Assembly of the State of Ohio,* That the Auditor of State be and he is hereby instructed to look into and investigate the matter; and if he find taxes have been wrongfully retained, he is hereby authorized and instructed to proceed in the name of the state to recover such taxes so wrongfully retained, and he is authorized to procure such assistance, in addition to the Attorney General, legal and otherwise, as he and the Attorney General may deem proper and necessary.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
 JACOB MUELLER,  
*President of the Senate.*

Adopted May 1, 1873.

### JOINT RESOLUTION

Providing for an examination into the laws of this State governing fares and freights on railroads, etc.

*Resolved by the General Assembly of the State of Ohio,* That it shall be and is hereby made the duty of the Commissioner of Railroads and Telegraphs, the Attorney General and the Auditor of State, to look into the laws of this state governing fares and freights on railroads, freights on fast lines, charges by express and telegraph companies, and fares by sleeping car companies, the matter of levying and collecting taxes on the property of railroad, telegraph, express, fast freight line and sleeping car companies doing business in this state, and report to the General Assembly, at its next session, what changes in the laws or new enactments are necessary to compel justice and equity between the people and these companies. And said officers for the purpose of obtaining the information contemplated shall have authority to send for persons and papers.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
 JACOB MUELLER,  
*President of the Senate.*

Adopted May 1, 1873.

## JOINT RESOLUTION

Authorizing the Secretary of State to distribute certain reports.

*Resolved by the General Assembly of the State of Ohio,* That the Secretary of State be and he is hereby directed to have boxed up at the state bindery the Geological Survey Reports and Statistical Reports, to which the members of the General Assembly are yet entitled, and ship the same to the address of the several members respectively; and the Secretary of State is hereby directed to pay the charges for shipping the same out of the amount appropriated for the distribution of the laws, journals and public documents.

N. H. VAN VORHES

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Adopted May 3, 1873.

## JOINT RESOLUTION

Relating to the construction of the Central Ohio Lunatic Asylum.

**WHEREAS,** It has been represented to the General Assembly, by the trustees of the Central Ohio Lunatic Asylum, that certain changes are desirable in plans and specifications heretofore adopted and approved, and also in the estimates therefor which limit the contract price; and,

**WHEREAS,** The said trustees likewise represent that it may and probably will be proper, before the meeting of the next General Assembly, to commence work on the heating apparatus and water apparatus for said institution; therefore,

*Resolved by the General Assembly of the State of Ohio,* That the trustees of the Central Ohio Lunatic Asylum be and they are hereby authorized to have the hot air flues lined with tin at an expense not exceeding six thousand dollars, and to substitute, in flooring the amusement hall, twelve inch light iron beams for the eight inch heavy iron beams required by the present plan, and corrugated iron for the brick arches between said beams, required by the present plan, provided these changes in said flooring shall not cause an increased expense in that behalf, exceeding fourteen hundred dollars; and that in letting the contract or contracts for iron work on the rear central wing, the trustees be and they are hereby authorized, if necessary, to exceed the estimate for said work, including fire proofing of the roof, the sum of not more than ten thousand dollars.

*Resolved,* That said trustees be and they are hereby authorized to contract for, according to law, and have furnished and put up heating apparatus, and all necessary and proper apparatus, machinery and fixtures for the supply and distribution of water for said institution, the former to not exceed eighty thousand dollars, and the latter not exceeding twenty-five thousand dollars, when completed: Provided, that the trustees be and they are hereby directed to finish the fourth story of the administration building as a ward for convalescent patients.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Adopted May 3, 1873.

## JOINT RESOLUTION

Relating to certain notes and indexes to the Constitution of 1802 and to the present Constitution.

WHEREAS, George B. Okey and John H. Morton, of Cincinnati, Ohio, have prepared notes and indexes to the Constitutions of the State adopted in the years 1802 and 1851, respectively; and,

WHEREAS, The members of the approaching Constitutional Convention will need, in the prosecution of their work, a convenient reference to said Constitutions, and such assistance as said notes and indexes will furnish; therefore,

*Resolved by the General Assembly of the State of Ohio*, That the Secretary of State be and he is hereby authorized and instructed to purchase of said George B. Okey and John H. Morton their manuscript of said Constitutions, and their said notes and indexes thereto, at a cost not to exceed ten cents for each copy thereof required by resolution to be published.

*Resolved*, That said Secretary be and he is hereby directed to have forthwith published, at the expense of the State, one thousand pamphlets containing said Constitutions, notes and indexes; that seven hundred and fifty of said pamphlets be furnished to the members of the present General Assembly, and two hundred and fifty be furnished the members of the coming Constitutional Convention.

*Resolved*, That said Constitutions, with said notes and indexes, be published in the volume of the laws of the present session.

*Resolved*, That it shall be the duty of said Okey and Morton to carefully read and correct the proof of said matter, and that no payment shall be made to them for said work until they produce to the Secretary of State the certificate of the Attorney General or a Judge of the Supreme Court that said work has been done according to the intent of this resolution.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

JACOB MUELLER,

*President of the Senate.*

Adopted May 3, 1873.

## JOINT RESOLUTION

Authorizing the trustees of the Southern Ohio Lunatic Asylum to sell certain land, and to re-invest the proceeds of such sale.

WHEREAS, The State of Ohio purchased, and on the 18th day of June, 1872, received a conveyance for, nine acres and two perches of land in the north-east quarter of section 32, town 2, range 7, between the Miami rivers, in Van Buren township, Montgomery county, Ohio, described as beginning at the north-west corner of the tract of land conveyed by Thomas Brown to A. M. Peasley, at a planted stone; thence south  $\frac{1}{4}^{\circ}$  east 46.1 poles, to a stone; thence east 31.3 poles to a stone; thence north  $\frac{1}{4}^{\circ}$  west 46.1 poles, to a stone; thence west 31.3 poles, to the place of beginning. Deed recorded Book T, No. 4, page 361, in the records of said county.

The object of said purchase being the benefit and use of the stream thereon; and

WHEREAS, The reservation of the water, and the sale of the land, to be again invested in land more convenient and useful to the purposes of the Southern Lunatic Asylum of this State, for the benefit of which institution said purchase was solely made, is desirable, and advantageous to the interest of said institution; therefore,

*Resolved by the General Assembly of the State of Ohio,* That the trustees of said Southern Lunatic Asylum be and they are hereby authorized to sell said land, reserving, under full and proper covenants, the water thereon, rights of way thereof, use, and right to enter and protect said use, etc., upon and in said nine acres, etc., to the State; said sale not to be made for a sum less than the original purchase money of said land. Upon the approval thereof by the Governor, he is hereby authorized to convey the same to the purchaser, in the name of and behalf of the State; and said trustees are hereby authorized and empowered to receive and invest the said purchase money in other land, more convenient, in their judgment, for the use of said asylum, and to receive a conveyance therefor to the State.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Adopted May 5, 1873.

## JOINT RESOLUTION

Relative to re-districting the State for lunatic purposes.

WHEREAS, In consequence of the burning of the Northern Ohio and Central Ohio Lunatic Asylums, and in anticipation of the early completion of Athens Lunatic Asylum, public good and convenience demands that there be a temporary re-districting of the State for lunatic purposes; therefore, be it

*Resolved by the General Assembly of the State of Ohio,* That, until otherwise ordered, the patients to be committed to the several insane asylums in the State shall be assigned as follows:

From the counties of Lucas, Fulton, Williams, Ottawa, Wood, Henry and Defiance, to the Lucas County Insane Asylum, as provided by contract with the commissioners of Lucas county for the support and maintenance of a portion of the insane of the State.

From the counties of Cuyahoga, Lake, Ashtabula, Geauga, Trumbull, Portage, Summit, Medina, Mahoning, Columbiana, Huron, Sandusky, Erie and Lorain, to the Northern Asylum at Newburgh.

From the counties of Montgomery, Preble, Butler, Warren, Greene, Clarke, Miami, Darke, Champaign, Logan, Shelby, Mercer, Auglaize, Allen, Van Wert, Paulding, Hancock, Putnam, Hardin, Wyandot, Seneca, Crawford, Marion, Union, Morrow, Richland, Ashland, Wayne, Delaware, Madison, Fayette, Clinton, Clermont and Brown, to the Southern Asylum at Dayton.

From the counties of Athens, Ross, Meigs, Gallia, Lawrence, Jackson,

Vinton, Hocking, Scioto, Pike, Highland, Adams, Pickaway, Fairfield, Perry, Licking, Muskingum, Morgan, Noble, Guernsey, Belmont, Monroe, Washington, Harrison, Carroll, Jefferson, Coshocton, Franklin, Knox, Holmes, Tuscarawas and Stark, to the Athens Lunatic Asylum.

The patients now in the several asylums to be assigned and removed, under the direction of the several boards of trustees of said asylums, according to the terms of this resolution, as soon as the asylum at Athens is ready for the reception of patients and the same can be done with due regard to the health and comfort of the patients.

*Resolved*, That Joint Resolution passed March 29, 1872, page 309, O. L., Vol. 69, be and the same is hereby rescinded; said rescinding not to affect the district provided for in said resolution until the Athens Lunatic Asylum is ready for the reception of patients.

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Adopted May 6, 1873.

## JOINT RESOLUTION

Relative to compensation of Members of Congress.

*Resolved by the General Assembly of the State of Ohio*, That, in the opinion of this general assembly, the exercise of the authority to enact laws providing for the increase of the compensation of congressmen having a retroactive operation, and inuring to the benefit of the congress passing the same, is vicious and corrupting in the tendering; and that such legislation, in the light of experience, should be prohibited by amendment to the constitution.

*Resolved*, That those members of congress who voted for an increase of their own salaries retroactive in effect, and those who voted against such increase, but still accepted this increase, are deserving of the censure of the people of Ohio.

*Resolved*, That the governor be and he is hereby requested to forward a copy of these resolutions to each of our senators and representatives in congress.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Adopted May 6, 1873.

## JOINT RESOLUTION

Relating to the Longview Asylum.

*Resolved by the General Assembly of the State of Ohio*, That it be and is hereby made the duty of the governor, auditor of state, and attorney general, to confer with the proper authorities of Hamilton county and

Longview asylum, as to the price and equitable terms upon which said asylum and the government thereof can be transferred to the state, and report to the next session of the general assembly.

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Adopted May 6, 1873.

## JOINT RESOLUTION

Providing for an adjournment of the General Assembly *sine die*.

*Resolved by the General Assembly of the State of Ohio, That this sixtieth general assembly adjourn sine die, at 9 o'clock A. M., Tuesday, May 6th, 1873.*

N. H. VAN VORHES,

*Speaker of the House of Representatives.*

ALLAN T. BRINSMADE,

*President pro tem. of the Senate.*

Adopted May 6, 1873.

## JOINT RESOLUTIONS

Relative to printing the School Law in pamphlet form.

*Resolved, by the General Assembly of the State of Ohio, That the Supervisor of Public Printing be instructed, while the new school law is being printed in the volume of General Laws, to have twenty thousand extra copies printed, to be bound in brochure; two thousand copies for the use of the State Commissioner of Common Schools, and eighteen thousand copies to be distributed by him to the auditors of the several counties of the State, and by said auditors distributed to such school offices as may be designated by said State Commissioner as entitled to receive them.*

*Resolved, further, That the said Supervisor shall have fifteen hundred copies of the school law printed in the German language, in pamphlet form, bound in brochure; two hundred copies for the use of the Commissioner, and thirteen hundred copies to be distributed by him to the auditors of the several counties, in proportion to their German population, as near as can be, and that the translation of the said school law into the German language shall be under the supervision of the Lieutenant Governor.*

CHARLES H. BABCOCK,

*Speaker pro tem. of the House of Representatives.*

ALLEN T. BRINSMADE,

*President pro tem. of the Senate.*

Adopted May 6, 1873.



## JOINT RESOLUTION

Authorizing the printing of fifteen hundred copies of the report of the State Commissioner of Common Schools in the German language.

*Resolved, by the General Assembly of the State of Ohio, That there be printed fifteen hundred copies of the report of the State Commissioner of Common Schools, for the year 1872, in the German language, to be distributed by the school commissioners among the counties with English copies in proportion to their German population, as near as can be.*

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
 ALLEN T. BRINSMADE,  
*President pro tem. of the Senate.*

Adopted May 6, 1873.

## JOINT RESOLUTION

Ratifying, on behalf of the State of Ohio, the second article of the twelve amendments to the Constitution of the United States, submitted by the first Congress.

WHEREAS, by the fifth article of the Constitution of the United States of America, it is provided that the Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to the said constitution, which shall be valid to all intents and purposes as part of said constitution, when ratified by the Legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by Congress; and,

WHEREAS, In the session of the congress of the United States of America, begun and held at the city of New York, on the 4th of March, 1789, it was resolved by the Senate and House of Representatives of the United States, in Congress assembled, two-thirds of both Houses concurring, that the following article (being the second article of twelve) be proposed to the Legislatures of the several States, as an amendment to the constitution of the United States, which article, when ratified by three-fourths of said Legislatures, to be valid to all intents and purposes as a part of said constitution, viz: "Article the Second: No law varying the compensation for the services of the senators and representatives shall take effect until an election of representatives shall have intervened;" and,

WHEREAS, The said article the second not having received the assent of the Legislatures of three-fourths of the several States is still pending for ratification; therefore,

*Resolved by the General Assembly of the State of Ohio, That we hereby ratify, on behalf of the State of Ohio, the above recited proposed amendment to the Constitution of the United States.*

*Resolved, That certified copies of the foregoing preamble and resolution be forwarded by the Governor of Ohio to the President of the United States, to the presiding officer of the United States Senate, the Speaker*

of the United States House of Representatives, and the Secretary of State of the United States.

N. H. VAN VORHES,  
*Speaker of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Adopted May 6, 1873.

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## JOINT RESOLUTION

Relative to repeal of the Act increasing the compensation of Members of Congress.

WHEREAS, The action of the last Congress increasing the compensation of the members thereof, the President of the United States, and other officers, was unnecessary, uncalled for, and distasteful to the people of Ohio, and, it is believed, of the whole Union, and its speedy repeal earnestly demanded by the people; therefore,

*Resolved by the General Assembly of the State of Ohio*, That our Senators from Ohio in Congress be and are hereby instructed, and the Representatives in Congress from Ohio be and are hereby requested, to zealously use all honorable effort to procure the repeal of said law, so far as it relates to such compensation, at the earliest practicable period.

*Resolved*, That the Governor be requested to forward a copy of these resolutions to each Senator and Representatives from Ohio.

CHARLES H. BABCOCK,  
*Speaker pro tem. of the House of Representatives.*  
ALLAN T. BRINSMADE,  
*President pro tem. of the Senate.*

Adopted May 6, 1873.

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OFFICE OF SECRETARY OF STATE,

COLUMBUS, OHIO, June 5, 1873.

I hereby certify that the foregoing General and Local Laws and Joint Resolutions are correctly copied from the original rolls on file in this office.

A. T. WIKOFF,  
*Secretary of State.*

## **TIMES FOR HOLDING COURTS IN OHIO IN 1873.**

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### **FIRST DISTRICT.**

#### **DISTRICT COURT.**

Hamilton, April 7, October 6.

#### **COMMON PLEAS.**

Hamilton, January 6, June 2, November 3.

### **SECOND DISTRICT.**

#### **DISTRICT COURT.**

Butler, March 31; Clarke, April 14; Champaign, April 21; Clinton, May 19; Darke, April 30; Greene, April 23; Miami, April 28; Montgomery, May 7; Preble, May 5; Warren, May 12.

#### **COMMON PLEAS.**

Butler, January 6, May 19, October 20.  
Champaign, February 24, June 16, November 24.  
Clarke, January 20, June 2, October 20.  
Clinton, March 3, June 16, December 1.  
Darke, January 6, June 2, October 20.  
Greene, March 3, June 16, December 1.  
Miami, January 20, June 2, October 20.  
Montgomery, January 6, May 19, October 20.  
Preble, March 10, June 16, December 1.  
Warren, January 20, June 2, October 20.

### **THIRD DISTRICT.**

#### **DISTRICT COURT.**

Allen, September 17; Auglaize, September 5; Crawford, March 27; Defiance, July 2; Fulton, July 5; Hancock, April 1; Hardin, September 1; Henry, July 1; Logan, August 28; Marion, March 25; Mercer, September 9; Paulding, July 3; Putnam, September 11; Seneca, April 3; Shelby, September 3; Union, August 25; Van Wert, September 15; Williams, July 7; Wood, April 5; Wyandot, March 29.

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## COMMON PLEAS.

Allen, February 24, May 26, October 20.  
 Auglaize, March 3, May 26, October 15.  
 Crawford, February 17, June 9, October 27.  
 Defiance, January 20, April 28, September 29.  
 Fulton, February 25, May 13, October 21.  
 Hancock, February 3, May 26, October 6.  
 Hardin, February 25, May 20, November 3.  
 Henry, February 10, May 5, October 6.  
 Logan, March 18, June 3, November 24.  
 Marion, January 27, May 26, September 22.  
 Mercer, February 17, April 28, November 10.  
 Paulding, February 4, June 3, September 23.  
 Putnam, February 3, May 12, September 29.  
 Seneca, March 3, June 9, November 3.  
 Shelby, January 14, April 15, September 29.  
 Union, February 3, May 5, October 19.  
 Van Wert, January 14, May 13, October 28.  
 Williams, March 11, May 20, November 4.  
 Wood, January 6, May 5, September 2.  
 Wyandot, January 6, May 12, September 1.

## FOURTH DISTRICT.

## DISTRICT COURT.

Erie, April 2; Huron, March 24; Lucas, April 9; Sandusky, March 28; Ottawa, April 7;  
 Lorain, August 25; Summit, September 1; Cuyahoga, September 8; Medina, August 28.

## COMMON PLEAS.

Erie, February 3, May 19, October 20.  
 Huron, February 24, June 2, November 10.  
 Lucas, February 3, May 5, October 20.  
 Sandusky, January 20, April 21, October 13.  
 Ottawa, January 13, May 5, October 6.  
 Lorain, January 27, April 28, October 20.  
 Medina, January 13, May 5, September 29.  
 Summit, January 27, May 12, October 20.  
 Cuyahoga, February 10, May 5, November 3.

## FIFTH DISTRICT.

## DISTRICT COURT.

Madison, April 29; Franklin, May 2; Pickaway, May 9; Fayette, May 15; Adams, September 10; Brown, September 12; Clermont, September 19; Highland, September 25; Ross, September 27.

## COMMON PLEAS.

Adams, January 21, May 20, October 21.  
 Brown, February 4, June 3, October 21.  
 Clermont, February 18, June 10, November 11.  
 Fayette, February 18, June 3, November 18.  
 Franklin, February 3, May 19, October 20.  
 Highland, January 21, April 15, October 21.  
 Madison, January 21, April 1, September 16.  
 Ross, January 28, May 20, October 21.  
 Pickaway, March 4, June 17, November 18.

## SIXTH DISTRICT.

## DISTRICT COURT.

Ashland, June 16; Coshocton, July 10; Delaware, June 2; Holmes, June 27; Knox, July 7; Licking, June 30; Morrow, June 19; Richland, June 9; Wayne, June 23.

## COMMON PLEAS.

Ashland, April 8, September 15, December 8.  
 Coshocton, February 11, April 29, October 21.  
 Delaware, March 25, September 2, November 25.  
 Holmes, January 20, April 14, September 1.  
 Knox, February 10, May 5, October 20.  
 Licking, January 20, April 8, October 20.  
 Morrow, February 3, August 4, October 20.  
 Richland, February 17, August 11, November 17.  
 Wayne, March 10, August 4, November 24.

## SEVENTH DISTRICT.

## DISTRICT COURT.

Athens, September 4; Fairfield, August 28; Gallia, April 17; Hocking, September 1; Jackson, September 10; Lawrence, April 21; Meigs, April 14; Perry, August 26; Pike, April 29; Scioto, April 24; Vinton, September 8; Washington, April 10.

## COMMON PLEAS.

Athens, March 6, May 29, November 3.  
 Fairfield, March 4, June 2, October 27.  
 Gallia, February 17, May 12, October 16.  
 Hocking, February 10, May 19, October 13.  
 Jackson, February 24, May 26, October 13.  
 Lawrence, January 28, May 6, September 23.  
 Meigs, February 3, April 28, September 30.  
 Perry, January 27, May 5, September 29.  
 Pike, April 1, June 24, November 18.  
 Scioto, March 3, June 2, October 27.  
 Vinton, February 11, May 6, September 16.  
 Washington, March 3, May 26, October 30.

## EIGHTH DISTRICT.

## DISTRICT COURT.

Belmont, September 17 ; Guernsey, September 22 ; Harrison, September 29 ; Jefferson, October 1 ; Monroe, September 15 ; Morgan, September 8 ; Noble, September 11 ; Muskingum, September 1 ; Tuscarawas, September 26.

## COMMON PLEAS.

Belmont, February 10, May 12, November 3.  
 Guernsey, January 14, April 22, October 15.  
 Harrison, February 10, May 12, October 15.  
 Jefferson, March 17, June 16, November 24.  
 Monroe, January 21, April 8, October 21.  
 Morgan, March 24, June 16, November 10.  
 Muskingum, February 18, April 22, November 18.  
 Noble, February 3, June 2, October 27.  
 Tuscarawas, February 24, May 26, October 27.

## NINTH DISTRICT.

## DISTRICT COURT.

Ashtabula, April 29 ; Carroll, September 15 ; Columbiana, September 24 ; Geauga, April 28 ; Lake, April 13 ; Mahoning, September 29 ; Portage, April 21 ; Stark, September 18 ; Trumbull, April 14.

## COMMON PLEAS.

Ashtabula, February 24, June 9, November 24.  
 Carroll, January 6, March 31, September 1.  
 Columbiana, January 20, May 5, October 20.  
 Geauga, January 13, May 5, October 20.  
 Lake, January 27, May 19, November 3.  
 Mahoning, January 6, May 5, October 20.  
 Portage, February 3, May 5, October 27.  
 Stark, February 10, May 26, November 10.  
 Trumbull, February 24, June 2, November 17.

## JUDGES OF THE SUPREME COURT.

Names.	Residence.	Remarks.
William White, <i>Chief Justice</i> .....	Springfield .....	Term expires Feb., 1874.
Luther Day, <i>Judge</i> .....	Ravenna .....	" " " 1875.
Geo. W. McIlvaine, <i>Judge</i> .....	New Philadelphia.....	" " " 1876.
Walter F. Stone, <i>Judge</i> .....	Sandusky City.....	" " " 1874.
John Welch, <i>Judge</i> .....	Athens .....	" " " 1878.
Rodney Foos, <i>Clerk</i> .....	Wilmington .....	" " " 1875.
James H. Beebe, <i>Law Librarian</i> .....	Columbus .....	Permanent.

## JUDGES OF THE COURTS OF COMMON PLEAS.

Dist.	Sub. Div.	Counties.	Names of Judges.	Post Office.
No. 1	.....	Hamilton .....	Manning F. Force..... Charles C. Murdock..... Joseph Cox..... Jacob Burnet..... William L. Avery.....	Cincinnati. Cincinnati. Cincinnati. Cincinnati. Cincinnati.
No. 2	1 {	Butler .....	David L. Meeker .....	Greenville.
		Preble .....	Henderson Elliott .....	Dayton.
		Montgomery .....	William J. Gilmore .....	Eaton.
		Darke .....		
No. 2	2 {	Champaign .....	R. C. Fulton .....	Urbana.
		Miami .....		
No. 3	3 {	Warren .....	James M. Smith .....	Lebanon.
		Clinton .....	Leroy Pope.....	Wilmington.
		Greene .....		
		Clarke .....		
No. 3	1 {	Logan .....	Philander B. Cole.....	Marysville.
		Union .....		
		Hardin .....		
		Shelby .....		
No. 3	2 {	Anglaize .....	James McKenzie.....	Lima.
		Allen .....	Edward M. Phelps .....	St. Mary's.
		Mercer .....		
		Van Wert .....		
		Putnam .....		
No. 3	3 {	Paulding .....	Alex. S. Latty .....	Defiance.
		Defiance .....		
		Williams .....		
		Fulton .....		
		Henry .....		
No. 3	4 {	Seneca .....	James Pillars.....	Tiffin.
		Hancock .....	Abner M. Jackson.....	Bucyrus.
		Wyandot .....		
		Crawford .....		
		Marion .....		
		Wood .....		
No. 4	1 {	Lucas .....	Charles E. Pennewell .....	Norwalk.
		Ottawa .....	William A. Collins.....	Toledo.
		Sandusky .....	Joshua R. Seney.....	Toledo.
		Erie .....	William G. Lane.....	Sandusky.
		Huron .....		
No. 4	2 {	Lorain .....	Samuel W. McClure.....	Akron.
		Medina .....	Washington W. Boynton....	Elyria.
		Summit.....		
No. 4	3 {	Cuyahoga .....	Horace Foote.....	Cleveland.
			Samuel B. Prentiss.....	Cleveland.
			Robert F. Payne.....	Cleveland.
No. 5	1 {	Clermont .....	Thomas Q. Ashburn.....	Batavia.
		Brown .....	David Tarbell .....	Georgetown.
		Adams .....		

## JUDGES OF THE COURT OF COMMON PLEAS—Continued.

Dist.	Sub. Div.	Counties.	Names of Judges.	Post Office.
No. 5	2	{ Ross .....	{ Samuel F. Steele .....	Hillsboro.
		{ Highland .....	{ William H. Safford .....	Chillicothe.
		{ Fayette .....		
No. 5	3	{ Pickaway .....	{ John L. Green .....	Columbus.
		{ Franklin .....	{ E. F. Bingham .....	Columbus.
		{ Madison .....		
No. 6	1	{ Licking .....	{ Charles Follett .....	Newark.
		{ Knox .....	{ John Adams .....	Mt. Vernon.
		{ Delaware .....		
No. 6	2	{ Morrow .....	{ George W. Geddes .....	Mansfield.
		{ Richland .....	{ Darius Dirlam .....	Mansfield.
		{ Ashland .....		
No. 6	3	{ Wayne .....	{ William Reed .....	Millersburg.
		{ Holmes .....		
		{ Coshocton .....		
No. 7	1	{ Fairfield .....	{ Silas H. Wright .....	Logan.
		{ Perry .....		
		{ Hocking .....		
No. 7	2	{ Jackson .....	{ J. J. Harper .....	Portsmouth.
		{ Vinton .....	{ W. K. Hastings .....	Jackson.
		{ Pike .....		
		{ Scioto .....		
		{ Lawrence .....		
No. 7	3	{ Gallia .....	{ T. A. Plants .....	Pomeroy.
		{ Meigs .....	{ Erastus A. Guthrie .....	Athens.
		{ Athens .....		
		{ Washington .....		
No. 8	1	{ Muskingum .....	{ Frederick W. Wood .....	McConnelsville.
		{ Morgan .....	{ William H. Frazier .....	Caldwell.
		{ Noble .....		
		{ Guernsey .....		
No. 8	2	{ Belmont .....	{ Robert E. Chambers .....	St. Clairsville.
		{ Monroe .....		
No. 8	3	{ Jefferson .....	{ John H. Miller .....	Steubenville.
		{ Harrison .....		
		{ Tuscarawas .....		
No. 9	1	{ Stark .....	{ Joseph Frease .....	Canton.
		{ Carroll .....		
		{ Columbiana .....		
No. 9	2	{ Trumbull .....	{ Philo B. Conant .....	Ravenna.
		{ Portage .....	{ Charles E. Glidden .....	Warren.
		{ Mahoning .....		
No. 9	3	{ Geauga .....	{ Milton C. Canfield .....	Chardon.
		{ Lake .....		
		{ Ashtabula .....		



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APPENDIX.

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CONSTITUTIONS OF OHIO

OF

1802 AND 1851,

WITH

NOTES TO THE DECISIONS CONSTRUING THEM, AND REFERENCES  
TO THE CONSTITUTIONAL DEBATES.

BY

GEORGE B. OKEY AND JOHN H. MORTON.

---

1—AP.



# CONSTITUTION OF OHIO.

ADOPTED, 1802.

We, the people of the eastern division of the territory of the United States, north-west of the river Ohio, having the right of admission into the general government, as a member of the Union, consistent with the constitution of the United States, the ordinance of congress of one thousand seven hundred and eighty-seven, and of the law of congress, entitled "An act to enable the people of the eastern division of the territory of the United States, north-west of the river Ohio, to form a constitution and state government, and for the admission of such state into the Union, on an equal footing with the original states, and for other purposes;" in order to establish justice, promote the welfare and secure the blessings of liberty to ourselves and our posterity, do ordain and establish the following constitution or form of government; and do mutually agree with each other to form ourselves into a free and independent state, by the name of the State of Ohio.

Preamble.

## ARTICLE I.

### OF THE LEGISLATIVE POWER.

SECTION 1. The legislative authority (1) of this state shall be vested in a GENERAL ASSEMBLY, which shall consist of a senate and house of representatives, both to be elected by the people. (*See Const. 1851, Art. II, § 1.*)

In whom  
legislative  
power  
vested.

(1.) It is the right of the Legislature to enact laws, and the province of the court to construe them. The Legislature has no power to enact a law declaring what construction or decision the court shall make upon acts under which rights and liabilities have already been acquired or incurred. Where the court has put a construction on an act, that construction is binding upon all existing cases. The explanatory act operates prospectively, and has from the time of its passage the force and effect of a law. Where such explanatory act assumes to give construction to existing acts, and to govern the decision of the court as to cases pending, it is judicial; and as the Constitution confers judicial power upon the courts, and withholds it from the Legislature, to that extent such act will be inoperative. As a law, such an act will be enforced; as a construction of previous acts, under which cases are already pending in the courts, it will be held void. *Schooner Aurora Borealis v. Dobbie*, 17 Ohio, 125-127—*Read, J.*; *Steamboat Messenger v. Pressler*, 13 Ohio St., 255-260.

Divorces are the subject of judicial, not legislative action, and the

Constitution confers upon the Legislature no power to grant them; but to avoid the consequences which would result from declaring all those void which have been granted by the Legislature during the existence of the state, rendering illegitimate the issue of second marriages, the court will pronounce them valid. *Bingham v. Miller*, 17 Ohio, 445.

The Legislature can not disturb existing contracts nor unsettle rights that have already become vested. *Smith v. Parsons*, 1 Ohio, 236; *Bank of Utica v. Card*, 7 Ohio, 2 pt. 170.

The Legislature has a right to change, modify, enlarge or restrain public corporations, which exist only for public purposes, as counties, cities and towns. *Marietta v. Fearing*, 4 Ohio, 427.

A citizen has no vested right in the forms of administering justice that precludes the Legislature from modifying or altering them at its pleasure. *Hays v. Armstrong*, 7 Ohio, 1 pt. 247.

The General Assembly, like the other departments of government, exercises only delegated authority; and any act passed by it, not falling fairly within the scope of "legislative authority," is as clearly void as though expressly prohibited. *C. W. & Z. R. Co. v. Clinton Co.*, 1 Ohio St., 77.

The power of the General Assembly to pass laws cannot be delegated by them to any other body, or to the people. *Ib.*

The act of March 1, 1851, to authorize the commissioners of said county to subscribe to the capital stock of the relator, does not delegate legislative power, or contravene this Constitution, in providing that the subscription shall not be made until the assent of a majority of the electors of the county (except two townships) is first obtained at an election held for that purpose. *Ib.*

It was competent for the Legislature, under this Constitution, to construct works of internal improvement on behalf of the state, or to aid in their construction by subscribing to the capital stock of corporations created for that purpose, and to levy taxes to raise the means; and by an exercise of the same power, to authorize a county to subscribe to a work of that character running through or into such county, and to levy a tax to pay the subscription. Such a tax, when thus authorized, is not beyond the legitimate scope of local municipal taxation: nor is it opposed to Article VIII, Section 4, of this Constitution, declaring that "private property ought and shall ever be held inviolate, but always subservient to the public welfare, provided a compensation in money be made to the owner." The taxing power for such purposes, under this instrument, was an undeniable legislative function, to be exercised at the discretion of the General Assembly, and subject to no limitation but that against poll taxes; and while this Court is unanimous in the opinion that such laws involve a gross abuse of that power, it possesses no authority to control that discretion, or to correct such abuses by the exercise of a veto power on such legislation. *Ib.*

So an act of the General Assembly, authorizing the trustees of a township through which a railroad was to be made, to subscribe on behalf of the township to the capital stock of the railroad company, is not in conflict with this Constitution. *Steubenville and I. R. Co. v. North Tp.*, 1 Ohio St., 105.

The provisions in the charter of the "Lake and Trumbull Plankroad Company," passed February 14, 1849, by which the trustees of certain townships are respectively authorized to subscribe to the capital stock of said company, if a majority of the qualified electors of the townships respectively assent thereto, is not in contravention with this instrument. *Loomis v. Spencer*, 1 Ohio St., 153.

A discriminating assessment for the improvement of streets, laid upon grounds immediately benefited in proportion to such benefit, was a legitimate exercise of the taxing power under this Constitution. *Scorill v. Cleveland*, 1 Ohio St., 126.

The power of taxation being a sovereign power, can only be exercised by the General Assembly, when, and as conferred, by the Constitution; and by municipal corporations only when unequivocally delegated to them by the legislative body. *Mays v. Cincinnati*, 1 Ohio St., 268.

SECTION 2. Within one year after the first meeting of the general assembly, and within every subsequent term of four years, an enumeration of all the white male inhabitants above twenty-one years of age shall be made in such manner as shall be directed by law. The number of representatives shall, at the several periods of making such enumeration, be fixed by the legislature, and apportioned among the several counties, according to the number of white male inhabitants above twenty-one years of age in each, and shall never be less than twenty-four, nor greater than thirty-six, until the number of white male inhabitants, above twenty-one years of age, shall be twenty-two thousand; and after that event, at such ratio that the whole number of representatives shall never be less than thirty-six, nor exceed seventy-two. (*See Const. 1851, Art. XI.*)

SEC. 3. The representatives shall be chosen annually, by the citizens of each county respectively, on the second Tuesday of October. (*See Const. 1851, Art. II, § 2.*)

SEC. 4. No person shall be a representative, who shall not have attained the age of twenty-five years, and be a citizen of the United States and an inhabitant of this state; shall also have resided within the limits of the county in which he shall be chosen, one year next preceding his election, unless he shall have been absent on the public business of the United States, or of this state, and shall have paid a state or county tax. (*See Const. 1851, Art. II, § 3.*)

SEC. 5. The senators shall be chosen biennially, by the qualified voters for representatives; and on their being convened in consequence of the first election, they shall be divided by lot, from their respective counties or districts, as near as can be, into two classes: the seats of the senators of the first class shall be vacated at the expiration of the first year, and of the second class at the expiration of the second year; so that one-half thereof, as near as possible, may be annually chosen forever thereafter. (*See Const. 1851, Art. II, § 2.*)

Census.

Apportionment of representatives.

Number of representatives.

When chosen.

Qualifications of representatives.

Senators—when and how chosen.

Number of senators, and how apportioned.

SEC. 6. The number of senators shall, at the several periods of making the enumeration before mentioned, be fixed by the legislature, and apportioned among the several counties or districts, to be established by law, according to the number of white male inhabitants of the age of twenty-one years in each, and shall never be less than one-third, nor more than one-half, of the number of representatives.

Qualifications of senators.

SEC. 7. No person shall be a senator who has not arrived at the age of thirty years, and is a citizen of the United States; shall have resided two years in the county or district, immediately preceding the election, unless he shall have been absent on the public business of the United States, or of this state; and shall, moreover, have paid a state or county tax. (*See Const. 1851, Art. II, § 2.*)

Powers of each house.

SEC. 8. The senate and house of representatives, when assembled, shall each choose a speaker and its other officers; be judges of the qualifications and elections of its members, and sit upon its own adjournments; two-thirds of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and compel the attendance of absent members. (*See Const. 1851, Art. II, §§ 6, 7.*)

Journals and yeas and nays.

SEC. 9. Each house shall keep a journal of its proceedings, and publish them: the yeas and nays of the members, on any question, shall, at the desire of any two of them, be entered on the journals. (*See Const. 1851, Art. II, § 9.*)

This journal, when taken in connection with the laws and resolutions, would seem to be the appropriate evidence of legislative action, and the journal cannot be contradicted by parol proof. *State v. Moffat*, 5 Ohio, 363.

Right of members to protest.

SEC. 10. Any two members of either house shall have liberty to dissent from, and protest against, any act or resolution which they may think injurious to the public or any individual, and have the reasons of their dissent entered on the journals. (*See Const. 1851, Art. II, § 10.*)

Rules and right of punishment and expulsion.

SEC. 11. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same cause; and shall have all other powers necessary for a branch of the legislature of a free and independent state. (*See Const. 1851, Art. II, § 8.*)

Vacancies in either house, how filled.

SEC. 12. When vacancies happen in either house, the governor, or the person exercising the power of the governor, shall issue writs of election to fill such vacancies. (*See Const. 1851, Art. II, § 11.*)

The General Assembly has always exercised the power of providing for vacancies that are about to happen during the official term of the members composing its own body. *State v. Choate*, 11 Ohio, 515.

Privilege of members from arrest, & of speech.

SEC. 13. Senators and representatives shall, in all cases, except treason, felony or breach of the peace, be privileged from arrest during the session of the general assembly, and

in going to and returning from the same; (1) and for any speech or debate in either house, they shall not be questioned in any other place. (*See Const. 1851, Art. II, § 12.*)

(1.) The effect of this privilege is, that the arrest of a member is unlawful and a trespass *ab initio*, for which he may maintain an action, or proceed against the aggressor by way of indictment. He may also be discharged by motion to a court of justice, or upon a writ of habeas corpus; and the person arresting him may also be punished as for a contempt. *Story on Cons., § 860, and cases there cited.*

SEC. 14. Each house may punish, by imprisonment, during their session, any person not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in their presence; provided such imprisonment shall not, at any one time, exceed twenty-four hours.

Contempts,  
how pun-  
ished.

SEC. 15. The doors of each house, and of committees of the whole, shall be kept open, except in such cases as, in the opinion of the house, require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days, nor to any other place than that in which the two houses shall be sitting. (*See Const. 1851, Art. II, § 13, 14.*)

When ses-  
sions to be  
public and  
power of ad-  
journment.

SEC. 16. Bills may originate in either house, but may be altered, amended or rejected by the other. (*See Const. 1851, Art. II, § 15.*)

Where bills  
to originate.

SEC. 17. Every bill shall be read on three different days in each house, unless, in case of urgency, three-fourths of the house where such bill is so depending, shall deem it expedient to dispense with this rule: and every bill having passed both houses, shall be signed by the speakers of their respective houses. (*See Const. 1851, Art. II, § 16, 17.*)

How often  
bill to be  
read.  
To be signed  
by the  
speakers.

SEC. 18. The style of the laws of this state shall be: "Be it enacted by the general assembly of the state of Ohio." (*See Const. 1851, Art. II, § 18.*)

Style of  
laws.

SEC. 19. The legislature of this state shall not allow the following officers of government greater annual salaries than as follows, until the year one thousand eight hundred and eight, to wit:—The governor, not more than one thousand dollars; the judges of the supreme court, not more than one thousand dollars each; the presidents of the courts of common pleas, not more than eight hundred dollars each; the secretary of state, not more than five hundred dollars; the auditor of public accounts, not more than seven hundred and fifty dollars; the treasurer, not more than four hundred and fifty dollars: no member of the legislature shall receive more than two dollars per day, during his attendance on the legislature, nor more for every twenty-five miles he shall travel in going to, and returning from, the general assembly.

Salaries of  
officers.

SEC. 20. No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office under this state, which shall have been created, or the emoluments of which shall have been increased, during such time. (*See Const. 1851, Art. II, § 19.*)

Exclusion  
from office.

Appropriations.

SEC. 21. No money shall be drawn from the treasury, but in consequence of appropriations made by law. (*See Const. 1851, Art. II, § 22.*)

How receipts, &c., to be published.

SEC. 22. An accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws annually.

Impeachments, how instituted and conducted.

SEC. 23. The house of representatives shall have the sole power of impeaching, but a majority of all the members must concur in an impeachment; all impeachments shall be tried by the senate; and when sitting for that purpose, the senators shall be upon oath or affirmation, to do justice according to law and evidence; no person shall be convicted without the concurrence of two-thirds of all the senators. (*See Const. 1851, Art. II, § 23.*)

Who liable to impeachment and punishment.

SEC. 24. The governor, and all other civil officers under this state, shall be liable to impeachment for any misdemeanor in office; but judgment in such case shall not extend further than removal from office, and disqualification to hold any office of honor, profit or trust, under this state. The party, whether convicted or acquitted, shall, nevertheless, be liable to indictment, trial, judgment and punishment, according to law. (*See Const. 1851, Art. II, § 24.*)

When sessions of the general assembly to be held.

SEC. 25. The first session of the general assembly shall commence on the first Tuesday of March next; and forever after, the general assembly shall meet on the first Monday of December, in every year, and at no other period, unless directed by law, or provided for by this constitution. (*See Const. 1851, Art. II, § 25.*)

Who eligible as candidates or members of the general assembly.

SEC. 26. No judge of any court of law or equity, secretary of state, attorney general, register, clerk of any court of record, sheriff or collector, member of either house of congress, or person holding any office under the authority of the United States, or any lucrative office under the authority of this state, (provided that appointments in the militia or justices of the peace, shall not be considered lucrative offices), shall be eligible as a candidate for, or have a seat in, the general assembly. (*See Const. 1851, Art. II, § 4.*)

Who eligible to other offices.

SEC. 27. No person shall be appointed to any office within any county, who shall not have been a citizen and inhabitant therein, one year next before his appointment, if the county shall have been so long erected, but if the county shall not have been so long erected, then within the limits of the county or counties out of which it shall have been taken.

Public defaulters not eligible as members of the general assembly.

SEC. 28. No person who heretofore hath been, or hereafter may be, a collector or holder of public moneys, shall have a seat in either house of the general assembly, until such person shall have accounted for, and paid into the treasury, all sums for which he may be accountable or liable. (*See Const. 1851, Art. II, § 5.*)



## ARTICLE II.

## OF THE EXECUTIVE.

SECTION 1. The supreme executive power of this state shall be vested in a governor. (*See Const. 1851, Art. III, § 5; Art. VI, § 2.*)

In whom executive power vested.

SEC. 2. The governor shall be chosen by the electors of the members of the general assembly, on the second Tuesday of October, at the same places, and in the same manner, that they shall respectively vote for members thereof. The returns of every election for governor, shall be sealed up and transmitted to the seat of government, by the returning officers, directed to the speaker of the senate, who shall open and publish them, in the presence of a majority of the members of each house of the general assembly: the person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, one of them shall be chosen governor by joint ballot of both houses of the general assembly. Contested elections for governor, shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law. (*See Const. 1851, Art. III, § 1, 3.*)

When governor shall be chosen, and how.

How his election to be contested.

SEC. 3. The first governor shall hold his office until the first Monday of December, one thousand eight hundred and five, and until another governor shall be elected and qualified to office; and forever after, the governor shall hold his office for the term of two years, and until another governor shall be elected and qualified; but he shall not be eligible more than six years, in any term of eight years. He shall be at least thirty years of age, and have been a citizen of the United States twelve years, and an inhabitant of this state four years next preceding his election. (*See Const. 1851, Art. III, § 2.*)

His term of office.

Who eligible and for what periods.

SEC. 4. He shall, from time to time, give to the general assembly information of the state of the government, and recommend to their consideration such measures as he shall deem expedient. (*See Const. 1851, Art. III, § 7.*)

He shall recommend, measures, &c.

SEC. 5. He shall have the power to grant reprieves and pardons, after conviction, except in cases of impeachment. (*See Const. 1851, Art. III, § 11.*)

May grant reprieves and pardons.

SEC. 6. The governor shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished, during the term for which he shall have been elected. (*Const. 1851, Art. III, § 19.*)

His compensation.

SEC. 7. He may require information, in writing, from the officers in the executive department, upon any subject relating to the duties of their respective offices, and shall take care that the laws be faithfully executed. (*See Const. 1851, Art. III, § 6.*)

He may require written information, &c.

SEC. 8. When any officer, the right of whose appointment is, by this constitution, vested in the general assembly, shall, during the recess, die, or his office by any means become vacant, the governor shall have power to fill such

What vacancies the governor to fill.

vacancy, by granting a commission, which shall expire at the end of the next session of the legislature.

A commission is the only evidence of the right to exercise these offices. *State v. Moffat*, 5 Ohio, 358.

A law authorizing the appointment for a period of time beyond the close of the next session of the Legislature would be unconstitutional. *Ib.*

When and how he may convene the general assembly.  
Commander-in-chief of militia.

SEC. 9. He may, on extraordinary occasions, convene the general assembly, by proclamation, and shall state to them, when assembled, the purposes for which they shall have been convened. (*See Const. 1851, Art. III, § 8.*)

SEC. 10. He shall be commander-in-chief of the army and navy of this state, and of the militia, except when they shall be called into the service of the United States. (*See Const. 1851, Art. III, § 10.*)

When he may adjourn the assembly.

SEC. 11. In case of disagreement between the two houses, with respect to the time of adjournment, the governor shall have the power to adjourn the general assembly to such time as he thinks proper; provided it be not a period beyond the annual meeting of the legislature. (*See Const. 1851, Art. III, § 9.*)

Who shall fill his place when vacancy occurs.

SEC. 12. In case of the death, impeachment, resignation or removal of the governor from office, the speaker of the senate shall exercise the office of governor, until he be acquitted or another governor shall be duly qualified. In case of the impeachment of the speaker of the senate, or his death, removal from office, resignation or absence from the state, the speaker of the house of representatives shall succeed to the office, and exercise the duties thereof, until a governor shall be elected and qualified. (*Const. 1851, Art. III, § 15, 17.*)

Who ineligible.

SEC. 13. No member of congress, or person holding any office under the United States, or this state, shall execute the office of governor. (*Const. 1851, Art. III, § 14.*)

Seal of state, and by whom kept.

SEC. 14. There shall be a seal of this state, which shall be kept by the governor, and used by him officially, and shall be called "THE GREAT SEAL OF THE STATE OF OHIO." (*See Const. 1851, Art. III, § 12.*)

How grants and commissions issued.

SEC. 15. All grants and commissions shall be in the name, and by the authority of the state of Ohio, sealed with the seal, signed by the governor, and countersigned by the secretary. (*See Const. 1851, Art. III, § 13.*)

#### SECRETARY OF STATE.

Secretary of state, how appointed—term of office and duties.

SEC. 16. A secretary of state shall be appointed (1) by a joint ballot of the senate and house of representatives, who shall continue in office three years, if he shall so long behave himself well: he shall keep a fair register of all the official acts and proceedings of the governor; and shall, when required, lay the same, and all papers, minutes and vouchers relative thereto, before either branch of the legislature; and shall perform such other duties as shall be assigned him by law. (*See Const. 1851, Art. III, § 1, 2.*)

(1) The Constitution contemplates two different modes of conferring office. One is by appointment, the other by election. When the office is to be conferred by the people, or by any considerable body of the people, it is spoken of as an *election*. When it is to be conferred by an individual, as by the Governor, or by a select number of individuals, as by a judicial court, or by the General Assembly, it is spoken of as an *appointment*. *State v. McCallister*, 11 Ohio, 46.

## ARTICLE III.

### OF THE JUDICIARY.

SEC. 1. The judicial power (1) of this state, both as to matters of law and equity, shall be vested in a supreme court, in courts of common pleas for each county, in justices of the peace, and in such other courts as the legislature may, from time to time, establish. (*See Const. 1851, Art. IV, § 1.*)

In whom judicial power vested.

(1.) It is the right of the Legislature to enact laws, and the province of the courts to construe them. The Legislature has no power to enact a law, declaring what construction or decision the court shall make upon acts under which rights and liabilities have already been acquired or incurred. As a law, such an act will be enforced; as a construction of previous acts, under which cases are already pending in the courts, it will be held void. *Schooner Aurora Borealis v. Dobbie*, 17 Ohio, 127.

There may be, and there undoubtedly are, cases where it is proper, nay, where it is the duty of a court to refuse to enforce a statute, on the ground that it is inconsistent with the supreme law of the land. Yet this ought not to be done, unless the statute in question is a plain and palpable violation of the Constitution. It should be both against the letter and spirit of that instrument. So long as there is a doubt, the decision of the court should be in favor of the statute. *McCormick v. Alexander*, 2 Ohio, 75. See *Lewis v. McElrain*, 16 Ohio, 354.

To an argument that a law was in contravention of the spirit of the Constitution, it was said: "This is rather dangerous ground to tread upon in determining the constitutionality of a law. We may all agree as to the reading of the Constitution, and generally as to its meaning; but when we come to talk of its spirit, it is a different matter. There is great danger that we shall conclude that spirit to be in accordance with our preconceived opinions or feelings of what it ought to be." *State v. Cincinnati*, 19 Ohio, 178, 197.

It is the right and duty of the judicial tribunals to determine whether a legislative act, drawn in question in a suit pending before them, is opposed to the Constitution of the United States, or of this state, and if so found, to treat it as a nullity. In such case, the presumption is always in favor of the validity of the law; and it is only when manifest assumption of authority and a clear incompatibility between the constitution and the law appear, that the judicial power will refuse to execute it. *C. W. & Z. R. Co. v. Clinton Co.*, 1 Ohio St., 77; 1 O. S., 105; 1 O. S., 153.

The supreme court.

SEC. 2. The supreme court shall consist of three judges, any two of whom shall be a quorum. They shall have original and appellate jurisdiction, (1) both in common law and chancery, in such cases as shall be directed by law; provided, that nothing herein contained shall prevent the general assembly from adding another judge to the supreme court after the term of five years, in which case the judges may divide the state into two circuits, within which any two of the judges may hold a court. (*See Const. 1851, Art. IV, § 2.*)

(1) Pending a suit in the Common Pleas, the Supreme Court has no constitutional jurisdiction of a motion to dissolve an injunction therein, nor will a special legislative enactment confer jurisdiction upon that court, to prevent the operation of an injunction allowed by the Common Pleas, in a case of which that court has taken jurisdiction. *Griffith v. Crawford Co.*, 20 Ohio, 609.

The common pleas.

SEC. 3. The several courts of common pleas, shall consist of a president and associate judges. The state shall be divided, by law, into three circuits; there shall be appointed in each circuit a president of the courts, who, during his continuance in office, shall reside therein. There shall be appointed in each county, not more than three nor less than two associate judges, who, during their continuance in office, shall reside therein. (1) The president and associate judges, in their respective counties, any three of whom shall be a quorum, shall compose the court of common pleas; which court shall have common law and chancery jurisdiction in all such cases as shall be directed by law; provided, that nothing herein contained shall be construed to prevent the legislature from increasing the number of circuits and presidents, after the term of five years. (*See Const. 1851, Art. IV, § 3, 4, 12.*)

(1) The Legislature may change the boundaries of a county, and when such change places an associate judge within the limits of another county, who does not within a reasonable time remove into the limits of a county for which he was appointed, he forfeits his office. *State v. Choate*, 11 Ohio, 511; *State v. Walker*, 17 Ohio, 135.

Criminal jurisdiction.

SEC. 4. The judges of the supreme court and courts of common pleas, shall have complete criminal jurisdiction in such cases and in such manner, as may be pointed out by law. (*See also Const. 1851, Art. IV, § 4.*)

The Constitution gives the judges of the Supreme Court power to take jurisdiction of such criminal cases as shall be pointed out by law, and to exercise it in such way as the law may point out. *State v. Turner*, Wright's Rep., 32.

SEC. 5. The court of common pleas in each county, shall have jurisdiction of all probate and testamentary matters, (1) granting administration, the appointment of guardians, and such other cases as shall be prescribed by law. (*See Const. 1851, Art IV, § 4, 8.*)

Probate and testamentary.

(1) By this Constitution, exclusive jurisdiction in probate and testamentary matters is vested in the courts of common pleas, and the orders of those courts made in the progress of such matters cannot be reviewed in the Supreme Court upon *certiorari*. *Matter of Gregory*, 19 Ohio, 357. See also *Ewing v. Hollister*, 7 Ohio, 2 pt. 138.

SEC. 6. The judges of the court of common pleas, shall, within their respective counties, have the same powers with the judges of the supreme court, to issue writs of *certiorari* to the justices of the peace, and to cause their proceedings to be brought before them, and the like right and justice to be done. (*See Const. 1851, Art. IV, § 4.*)

Certiorari.

SEC. 7. The judges of the supreme court shall, by virtue of their offices, be conservators of the peace throughout the state. The presidents of the courts of common pleas shall, by virtue of their offices, be conservators of the peace in their respective circuits; and the judges of the court of common pleas shall, by virtue of their offices, be conservators of the peace in their respective counties.

Judges conservators of the peace.

SEC. 8. The judges of the supreme court, the presidents and the associate judges of the courts of the common pleas, shall be appointed (1) by a joint ballot of both houses of the general assembly, and shall hold their offices for the term of seven years, (2) if so long they behave well. The judges of the supreme court, and the presidents of the courts of common pleas shall, at stated times, receive for their services an adequate compensation, to be fixed by law, which shall not be diminished during their continuance in office; but they shall receive no fees or perquisites of office, nor hold any other office of profit or trust under the authority of this state or the United States. (*See Const. 1851, Art. IV, § 12, 14.*)

Judges, how appointed, term of office, and salaries.

1. The Legislature may fill a vacancy that has happened or that is certain to happen before the meeting of the next General Assembly. *State v. Choate*, 11 O., 511.

Although this power of appointment is vested in both houses of the General Assembly, still the Constitution has not prescribed the particular manner in which it shall be exercised, except that it shall be by "joint ballot." This is left to be regulated by the legislative authority, and is regulated by joint rules of the two houses. An individual appointed by "joint ballot" cannot be deprived of the office by mistake of the clerks, for such mistake would be corrected by the bodies by whom they are appointed; nor by neglect of the speakers, nor in any other way except in the mode pointed out in the Constitution. *State v. Moffat*, 5 Ohio, 358.

(2) A law authorizing any other body than the General Assembly to appoint a judge for the term of seven years would be unconstitutional. *State v. Moffat*, 5 Ohio, 358.

Clerks of  
courts—  
term, &c.

SEC. 9. Each court shall appoint its own clerk for the term of seven years; but no person shall be appointed clerk, except *pro tempore*, who shall not produce to the court, appointing him, a certificate from a majority of the judges of the supreme court, that they judge him to be well qualified to execute the duties of the office of clerk to any court of the same dignity with that for which he offers himself. They shall be removable for breach of good behavior, at any time, by the judges of the respective courts. (*See Const. 1851, Art. IV, § 16.*)

May be  
removed.

Terms of  
courts.

SEC. 10. The supreme court shall be held once a year in each county, and the courts of common pleas shall be holden in each county, at such times and places as shall be prescribed by law.

The Supreme Court, under this Constitution, could direct a struck jury for the trial of a cause pending before it, in a different county from that in which the order was made. *Seeley v. Blair*, 6 Ohio, 448.

Justices of  
the peace.

SEC. 11. A competent number of justices of the peace shall be elected by the qualified electors in each township in the several counties, and shall continue in office three years, whose powers and duties shall, from time to time, be regulated and defined by law. (*See Const. 1851, Art. IV, § 9.*)

Style of pro-  
cess—prose-  
cutions and  
indictments.

SEC. 12. The style of all process shall be, "The State of Ohio;" all prosecutions shall be carried on in the name and by the authority of the State of Ohio; and all indictments shall conclude, "against the peace and dignity of the same." (*See Const. 1851, Art. IV, § 20.*)

## ARTICLE IV.

### OF ELECTIONS AND ELECTORS.

Who may  
vote.

SECTION 1. In all elections, all white male inhabitants above the age of twenty-one years, having resided in the state one year next preceding the election, and who have paid or are charged with a state or county tax, shall enjoy the right of an elector; but no person shall be entitled to vote, except in the county or district in which he shall actually reside at the time of the election. (*See Const. 1851, Art. V, § 1.*)

1. By the proper construction of the term "white male inhabitants," as used in this Constitution, all nearer white than black, or of the grade between the mulatto and white, are entitled to enjoy every political and social privilege of the white citizen. *Jeffries v. Ankney*, 11 Ohio, 375.

Where the Court of Common Pleas instructed the jury that a man who has any negro blood whatever is not a legal voter, it was held to be error. *Thacker v. Hawk*, 11 Ohio, 376.

Youth of negro, Indian and white blood, but of "more than one-half white blood," are entitled to the benefits of the common school fund. *Lane v. Baker*, 12 Ohio, 237, following *Gray v. State*, 4 Ohio, 353. See also *State v. Cincinnati*, 19 Ohio, 197.

Children of a white mother and a father three-fourths white are white children, within the meaning of the school laws. *Williams v. School District 6*, Wright's Rep., 578.

- SEC. 2. All elections shall be by ballot. (*See Const. 1851, Art. V, § 2.*) By ballot.
- SEC. 3. Electors shall, in all cases except treason, felony or breach of the peace, be privileged from arrest, during their attendance at elections, and in going to and returning from the same. (*See Const. 1851, Art. V, § 3.*) Voters, when privileged from arrest.
- SEC. 4. The legislature shall have full power to exclude from the privilege of electing, or being elected, any person convicted of bribery, perjury, or any other infamous crime. Forfeiture of elective franchise.
- SEC. 5. Nothing contained in this article shall be so construed as to prevent white male persons above the age of twenty-one years, who are compelled to labor on the roads of their respective townships or counties, and who have resided one year in the state, from having the right of an elector. Who may vote.
- (*See Const. 1851, Art. V, § 1.*)

## ARTICLE V.

### OF THE MILITIA OFFICERS.

(*See Const. 1851, Art. IX.*)

- SECTION 1. Captains and subalterns in the militia shall be elected by those persons, in their respective company districts subject to military duty. How officers elected.
- SEC. 2. Majors shall be elected by the captains and subalterns of the battalion. Same subject.
- SEC. 3. Colonels shall be elected by the majors, captains and subalterns of the regiment. Same subject.
- SEC. 4. Brigadiers general shall be elected by the commissioned officers of their respective brigades. Same subject.
- SEC. 5. Majors general and quartermasters general shall be appointed by joint ballot of both houses of the Legislature. Same subject.
- SEC. 6. The governor shall appoint the adjutant general. The majors general shall appoint their aids and other division staff officers. The brigadiers general shall appoint their brigade majors and other brigade staff officers. The commanding officers of regiments shall appoint their adjutants, quartermasters and other regimental staff officers; and the captains and subalterns shall appoint their non-commissioned officers and musicians. Same subject.
- SEC. 7. The captains and subalterns of the artillery and cavalry, shall be elected by the persons enrolled in their

respective corps; and the majors and colonels shall be appointed in such manner as shall be directed by law. The colonels shall appoint their regimental staff; and the captains and subalterns their non-commissioned officers and musicians.

## ARTICLE VI.

### OF CIVIL OFFICERS.

Sheriff and  
coroner.

SEC. 1. There shall be elected (1) in each county, one sheriff and one coroner, by the citizens thereof, who are qualified to vote for members of the assembly; they shall be elected at the time and place of holding elections for members of assembly; they shall continue in office two years, if they shall so long behave well, and until successors be chosen and duly qualified: provided, that no person shall be eligible as sheriff for a longer term than four years in any term of six years. (*Const. 1851, Art. X, § 1-3.*)

(1) Laws requiring these officers to be commissioned, give bond, and take oath of office are not unconstitutional. *State v. Moffat*, 5 Ohio, 358.

State treasurer and  
auditor.

SEC. 2. The state treasurer and auditor shall be triennially appointed by a joint ballot of both houses of the legislature.

Town and  
township  
officers.

SEC. 3. All town and township officers shall be chosen annually, by the inhabitants thereof, duly qualified to vote for members of assembly, at such time and place as may be directed by law. (*See Const. 1851, Art. X, § 1.*)

Other  
officers.

SEC. 4. The appointment of all civil officers, not otherwise directed by this constitution, shall be made in such manner as may be directed by law.

## ARTICLE VII.

### OFFICIAL OATHS.

Oath of  
officers.

SEC. 1. Every person who shall be chosen or appointed to any office of trust or profit, under the authority of this state, shall, before the entering on the execution thereof, take an oath or affirmation to support the constitution of the United States and of this state, and also an oath of office. (*See Const. 1851, Art. XV, § 7.*)

### BRIBERY AT ELECTIONS.

Bribery at  
elections.

SEC. 2. Any elector, who shall receive any gift or reward for his vote, in meat, drink, money or otherwise, shall suffer such punishment as the law shall direct; and any person who shall, directly or indirectly, give, promise, or bestow any such reward, to be elected, shall thereby be rendered incapable, for two years, to serve in the office for which he was elected, and be subject to such other punishment as shall be directed by law.



## OF NEW COUNTIES.

SEC. 3. No new county (1) shall be established by the general assembly, which shall reduce the county or counties, or either of them, from which it shall be taken, to less contents than four hundred square miles; nor shall any county be laid off, of less contents. Every new county, as to the right of suffrage and representation, shall be considered as a part of the county or counties from which it was taken, until entitled by numbers to the right of representation. (*See Const. 1851, Art. II, § 30.*)

Extent of  
new counties  
and repre-  
sentation  
therein.

(1) Where the Legislature has erected a new county out of territory formerly belonging to other counties, and to compensate such counties for the loss of territory occasioned by the erection of a new county, has added territory to them from adjoining counties, it is competent for the Legislature to provide that the county receiving the accession of territory shall pay an equitable proportion of the indebtedness of the county from which such territory has been taken; and the provision of the statute creating the county of Auglaize, which requires Allen county to pay a portion of the debts of Putnam county, is valid. *Putnam Co. v. Allen Co.*, 1 Ohio St., 322.

## OF THE SEAT OF GOVERNMENT.

SEC. 4. Chillicothe shall be the seat of government until the year one thousand eight hundred and eight. No money shall be raised until the year one thousand eight hundred and nine, by the legislature of this state, for the purpose of erecting public buildings for the accommodation of the legislature. (*See Const. 1851, Art. XV, § 1.*)

## OF AMENDMENTS TO THE CONSTITUTION.

SEC. 5. That after the year one thousand eight hundred and six, whenever two-thirds of the general assembly shall think it necessary to amend or change this constitution, they shall recommend to the electors, at the next election for members to the general assembly, to vote for or against a convention; and if it shall appear that a majority of the citizens of the state, voting for representatives, have voted for a convention, the general assembly shall, at their next session, call a convention, to consist of as many members as there be in the general assembly; to be chosen in the same manner, at the same place, and by the same electors that choose the general assembly; who shall meet within three months after the said election, for the purpose of revising, amending or changing the constitution. But no alteration of this constitution shall ever take place, so as to introduce slavery or involuntary servitude into this state. (*See Const. 1851, Art. XVI, § 2.*)

Of amend-  
ments to the  
constitution.

## BOUNDARIES OF THE STATE.

SEC. 6. That the limits and boundaries of this state be ascertained, it is declared, that they are, as hereafter men-

Boundaries  
of the state.

tioned; that is to say: bounded on the east by the Pennsylvania line; on the south by the Ohio river to the mouth of the Great Miami river; on the west by the line drawn due north from the mouth of the Great Miami, aforesaid; and on the north by an east and west line drawn through the southerly extreme of Lake Michigan, running east, after intersecting the due north line aforesaid, from the mouth of the Great Miami until it shall intersect Lake Erie or the territorial line, and thence with the same, through Lake Erie, to the Pennsylvania line aforesaid; provided always, and it is hereby fully understood and declared by this convention, that if the southerly bend or extreme of Lake Michigan should extend so far south, that a line drawn due east from it should not intersect Lake Erie, or if it should intersect the said Lake Erie, east of the mouth of the Miami river of the lake, then and in that case, with the assent of the congress (1) of the United States, the northern boundary of this state shall be established by, and extended to, a direct line running from the southern extremity of Lake Michigan to the most northerly cape of the Miami Bay, after intersecting the due north line from the mouth of the Great Miami river as aforesaid, thence northeast to the territorial line, and, by the said territorial line, to the Pennsylvania line.

(1) In June, 1836, Congress passed an act fixing the northern boundary at a direct line drawn from the southerly extreme of Lake Michigan to the most northerly cape in the Maumee Bay, and thence intersecting the territorial line, and thence with the same to the Pennsylvania line. (*See Const. 1851, Preamble and Note. And see also Daniels v. Stevens*, 19 Ohio, 222; *Myers v. Manhattan Bank*, 20 Ohio, 283.)

## ARTICLE VIII.

### BILL OF RIGHTS.

That the general, great and essential principles of liberty and free government may be recognized and forever unalterably established, we declare,

Right to  
freedom and  
to establish  
and alter;  
government.

SECTION 1. That all men are born equally free and independent, and have certain natural, inherent and unalienable rights; amongst which are the enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety; and every free republican government, being founded on their sole authority, and organized for the great purpose of protecting their rights and liberties, and securing their independence; to effect these ends, they have at all times a complete power to alter, reform or abolish their government, whenever they may deem it necessary. (*See Const. 1851, Art. I, § 1, 2.*)

Of slavery  
and involun-  
tary servi-  
tude.

SEC. 2. There shall be neither slavery nor involuntary servitude in this state, otherwise than for the punishment of crimes, whereof the party shall have been duly convicted; nor shall any male person, arrived at the age of twenty-one

years, or female person arrived at the age of eighteen years, be held to serve any person as a servant, under the pretense of indenture or otherwise, unless such person shall enter into such indenture while in a state of perfect freedom, and on condition of a *bona fide* consideration received, or to be received, for their service, except as before excepted. Nor shall any indenture of any negro or mulatto, hereafter made and executed out of the state, or if made in the state, where the term of service exceeds one year, be of the least validity, except those given in the case of apprenticeships. (*See Const. 1851, Art. I, § 6.*)

SEC. 3. That all men have a natural and indefeasible right to worship Almighty God, according to the dictates of conscience; that no human authority can, in any case whatever, control or interfere with the rights of conscience; (1) that no man shall be compelled to attend, erect or support any place of worship, or to maintain any ministry, against his consent; and that no preference shall be given, by law, to any religious society or mode of worship, and no religious test shall be required, as a qualification, to any office of trust or profit. But religion, morality and knowledge, being essentially necessary to good government and the happiness of mankind, schools and the means of instruction shall forever be encouraged by legislative provision, not inconsistent with the rights of conscience. (2) (*See Const. 1851, Art. I, § 7.*)

(1) No person can be called in question under our Constitution for his religious belief; but if it be necessary to inquire into the tenets of a body of worshipers to settle a controversy between them about property, that is constitutional. *Kisor v. Stancifer*, Wright's Rep., 323.

*Quere.*—If inquiring into a man's religious belief, to determine his competency as a witness, is not a violation of the Constitution? *East-erday v. Kilborn*, Wright's Rep., 345.

One believing in the existence of God, who sees him in all created nature, and who believes he is as much obliged to tell truth without oath as with, and in future rewards and punishments in this life, and that if he does wrong his conscience will condemn him, is competent. *Ib.*

The prohibition of common labor on the Sabbath, in the act for the prevention of immoral practices, embraces the business of "trading, bartering, selling or buying any goods, wares or merchandise." *Cincinnati v. Rice*, 15 Ohio, 225.

The ordinance of the city of Cincinnati prohibiting such trading, etc., on Sunday, is void as to those who conscientiously do observe the seventh day of the week as the Sabbath. *Ib.*

(2) The whole subject of organizing and regulating schools is left to the General Assembly. But it is insisted that the act of 1849 (2 Curwen, 1469), to authorize the establishment of separate schools for colored children, is in contravention of the spirit of the Constitution. This is dangerous ground to tread upon in determining the constitutionality of a law. We may agree as to the reading of the Constitution, and generally of its meaning; but when we come to talk of its

spirit, it is a different matter. There is danger that we shall conclude the spirit to be in accordance with our preconceived opinions or feelings of what it ought to be. And the court held the act in question to be constitutional. *State v. Cincinnati*, 19 Ohio, 197—Hitchcock, J.

Of the inviolability of private property.

SEC. 4. Private property ought and shall ever be held inviolate, but always subservient to the public welfare, provided a compensation in money be made to the owner. (1) (*See Const. 1851, Art. I, § 19, and note.*)

(1) The power to appropriate property for public uses, for the purpose of promoting the general welfare, is inherent in every government; but this power must be exercised in cases and for objects strictly public; and the Constitution of the United States and of the State of Ohio, in all cases insure that principle of natural justice, which requires compensation to be made to the individual deprived of his property. *Cooper v. Williams*, 4 Ohio, 253, s. c. affirmed 5 Ohio, 391; and see *Le Clerq v. Gallipolis*, 7 Ohio, 1 pt. 217.

Private property may be taken for public use, when provision for the assessment and payment of damages is made, whether the owner is actually paid or not. *Mercer v. McWilliams*, Wright's Rep., 132.

If the right to appropriate private property to the public use depended upon the movement of the owner it would be useless, as, if he chose to sell his property, he could do so without the exercise of the sovereign power. *Ib.*

A canal is such a public work that private property may be taken in constructing it. *Cooper v. Williams*, 4 Ohio, 253; also, *Willyard v. Hamilton*, 7 Ohio, 2 pt. 111; and also in repairing it. *Bates v. Cooper*, 5 Ohio, 115. A toll-bridge authorized by law is such a work also. *Young v. Buckingham*, 5 Ohio, 485. So are public streets. *Hickox v. Cleveland*, 8 Ohio, 543; *Symonds v. Cincinnati*, 14 Ohio, 147; *Brown v. Cincinnati*, 14 Ohio, 541. So are turnpikes. *Kemper v. C. C. & W. Tp. Co.*, 11 Ohio, 393; and railroads. *Moorehead v. L. M. R. Co.*, 17 Ohio, 350.

The authority granted to officers of the State, under the act of 1826, (2 Chase, 1476,) to take private property to aid in the construction and repair of the public works, is constitutional. Nor is it necessary that compensation shall be made to the owner in advance; it is sufficient if provision be made by law for compensating the owner, so that he may have compensation if he desire. *Bates v. Cooper*, 5 Ohio, 115.

Consequential injuries sustained by individuals in the grading and leveling of streets, are not within the protection of this provision. But it is in the power of the Legislature to award compensation to the party injured. *Hickox v. Cleveland*, 8 Ohio, 543.

The State has not the constitutional power to take the property of one and transfer it to another, in compensation for damages sustained in the appropriation of land to public use. Before the owner can, without his consent, be deprived of land for public use, the Legislature must declare by law that the public welfare requires it, directing the mode of ascertaining its value, and provide for its payment. *McArthur v. Kelly*, 5 Ohio, 139; see *Foote v. Cincinnati*, 11 Ohio, 410.

The special act passed by the Legislature January 7, 1813, (Land Laws, 275; 11 O. L. 22,) authorizing a partition and sale of the lands

of Aaron Olmstead, deceased, was constitutional, and the sales made by the trustees named in the act are legal, and a bar to any claim set up by said devisees or any person claiming under them. *Carroll v. Olmstead*, 16 Ohio, 251.

The Legislature has constitutional power to pass a law subjecting a decedent's lands to the payment of his debts. *Ludlow v. Johnson*, 3 Ohio, 553.

The power of the Legislature, under this Constitution, to take from the owner the absolute fee simple of his land, without any other compensation than the benefits to result from the uses for which the land is taken, and then to abandon those uses, and sell the lands, to be held and used by the purchaser as private property, is, to say the least, very questionable. It seems, in effect, to be the taking of private property for private use, without any compensation whatever. *Corwin v. Cowan*, 12 Ohio St., 633.

When private property is appropriated to public uses, it is not unconstitutional, in assessing the damages, to deduct therefrom the benefits conferred upon the owner by the appropriation. *Symonds v. Cincinnati*, 14 Ohio, 147.

Benefits conferred may be set off against the value of property appropriated for public use. *Brown v. Cincinnati*, 14 Ohio, 541.

A tax authorized by the Legislature to construct works of internal improvement on behalf of the state, or to aid in their construction by subscribing to the capital stock of corporations created for that purpose, and to levy taxes to raise the means; and by an exercise of the same power to authorize a county to subscribe to a work of that character running through or into such county, and to levy a tax to pay the subscription, is not beyond the legitimate scope of local, municipal taxation, and was not opposed to this section. *C. W. & Z. R. Co. v. Clinton Co.*, 1 Ohio St., 77.

Private acts of incorporation which confer power to subject private property to public use, should be strictly construed. Upon this principle it was held that a railroad company having once located and constructed its road, could not re-locate it, and for that purpose appropriate private property, although its charter gave it authority to vary the route and change the location after the first selection had been made, whenever a better and cheaper route could be had, or whenever any obstacle to the continuance of the location was found, either by difficulty of construction or procuring right of way at a reasonable cost. *Moorehead v. Little Miami R. Co.*, 17 Ohio, 340.

Subscriptions by municipal corporations to the capital stock of railroad companies are not in contravention of this Constitution. *Loomis v. Spencer*, 1 Ohio St., 153; *The Scubenville and Ind. R. Co. v. Trus. North Tp.*, 1 Ohio St., 105.

The Legislature has no constitutional power to authorize the majority of citizens in a county to vote a subscription of stock to a railroad company that shall be binding on the property of the minority. *Obiter dictum* of Judge Spalding in case of *Griffith v. Crawford Co.*, 20 Ohio, 609.

An incorporated road company, which is authorized by its charter to lay out and construct a turnpike road not exceeding one hundred feet

in width, to erect gates and collect toll, has no right to appropriate for a toll-house land lying without the line of the road. *Kemper v. C. C. & W. Tp. Co.*, 11 Ohio, 392.

Where, under the charter of a turnpike company, damages are assessed for injuries done to the land over which the road passes, the land owner cannot afterward sustain an action against one employed to make the road, for cutting the timber within the lines of the road into cord-wood and selling it. *Prather v. Ellison*, 10 Ohio, 396.

It is no violation of the Constitution for the General Assembly to provide in the charter of a town that the town council may impose the duty of making sidewalks upon the lot owners; and if any one neglect to perform the duty, the council may cause the work to be done for him, and assess the amount expended as tax upon the lot. *Bonsall v. Town of Lebanon*, 19 Ohio, 418.

A discriminating assessment for the improvement of streets laid upon grounds immediately benefited, in proportion to such benefit, was not opposed to this section. *Scovill v. Cleveland*, 1 Ohio St., 126.

Although the interests of riparian proprietors in streams of water be appropriated for the purposes of a canal, yet water cannot be taken from a stream for the purpose of creating hydraulic power to sell or lease on behalf of the state. *Cooper v. Williams*, 5 Ohio, 391; *Buckingham v. Smith*, 10 Ohio, 288.

The Legislature cannot, by declaring a river navigable which is not so in fact, deprive the riparian proprietors of their right to the use of the water for hydraulic and other purposes. *Walker v. Board of Public Works*, 16 Ohio, 540.

A law authorizing private property to be appropriated for public use, without providing compensation to the owner, is void. *Foote v. Cincinnati*, 11 O., 408.

Search warrants and general warrants.

SEC. 5. That the people shall be secure in their persons, houses, papers and possessions, from unwarrantable searches(1) and seizures; and that general warrants, whereby an officer may be commanded to search suspected places, without probable evidence of the fact committed, or to seize any person or persons not named, whose offenses are not particularly described, and without oath or affirmation, are dangerous to liberty, and shall not be granted. (*See Const. 1851, Art. I, § 14.*)

(1) It will not justify searching a man's house that one has been arrested there having in his possession counterfeit money. Existence on the premises of guilty implements, or evidences of crime, will warrant a search, but if not found there, the jurisdiction fails. Circumstances of reasonable suspicion may be proved in mitigation. *Simpson v. McCaffrey*, 13 Ohio, 508.

Of the freedom of speech and the press.

SEC. 6. That the printing presses shall be open and free to every citizen who wishes to examine the proceedings of any branch of government, or the conduct of any public officer; and no law shall ever restrain the right thereof.

Every citizen has an indisputable right to speak, write or print, upon any subject, as he thinks proper, being liable for the abuse of that liberty. In prosecutions for any publication respecting the official conduct of men in a public capacity, or where the matter published is proper for public information, the truth thereof may always be given in evidence; and in all indictments for libels, the jury shall have the right to determine the law and the facts, under the direction of the court, as in other cases. (1) (*See Const. 1851, Art. I, § 11.*)

Of libels.

(1) Under this section the jury in criminal cases are not absolute judges of the law, but only under the direction of the Court, as in other cases. *Montgomery v. State*, 11 Ohio, 424.

SEC. 7. That all courts shall be open, and every person for an injury done him in his lands, goods, person or reputation, shall have remedy by the due course of law, and right and justice administered without denial or delay. (*See Const. 1851, Art. I, § 16.*)

Of redress in courts.

SEC. 8. The right of trial by jury shall be inviolate. (*See Const. 1851, Art. I, § 5.*)

Trial by jury.

The right of the trial by jury was guarded by the ordinance of 1787, but it could never have been intended that, in every possible case, it should be enjoyed. Judicial proceedings, according to the common law, are secured, but this could never have been intended so to restrict the future legislative power of the territory or state that chancery proceedings could not be authorized, or other proceedings necessary to the ends of justice. *Cochran v. Loring*, 17 Ohio, 409, 425.

It was held to be no infringement upon this section for a court of law by adapting the modes of proceeding which belonged to courts of chancery, in execution of the occupying claimant law, as it then existed in this state, to ascertain the value of occupant's improvements, by commissioners instead of a jury. *Hunt v. McMahon*, 5 Ohio, 133.

The value of private property taken for public uses, may rightfully be assessed by commissioners, that not being a case for trial by jury secured in the Constitution, for the reason that it had never been so recognized in England or this country prior to the adoption of that instrument. *Willyard v. Hamilton*, 7 Ohio, 2 pt., 115.

The same doctrine was held in *Cooper v. Williams*, 4 Ohio, 253; *Bates v. Cooper*, 5 Ohio, 118; *Young v. Buckingham*, 5 Ohio, 485. In the latter case, the constitutional validity of assessing by commissioners the value of private property taken for public use was not questioned, although the subject was before the court. Also *Hogg v. Zanesville, C. & M. Co.*, 5 Ohio, 410; *Symonds v. Cincinnati*, 14 Ohio, 147.

There is a total inapplicability of the use of jury trial in a suit for consequential injuries sustained by individuals in the grading and leveling of streets. *Hickox v. Cleveland*, 8 Ohio, 546.

SEC. 9. That no power of suspending laws shall be exercised, unless by the legislature. (*See Const. 1851, Art. I, § 18.*)

Suspension of laws.

Of prisoners  
and charges  
against  
them.

SEC. 10. That no person, arrested or confined in jail, shall be treated with unnecessary rigor, or be put to answer any criminal charge, but by presentment, indictment or impeachment. (1) (*See Const. 1851, Art. I, § 10.*)

(1) It is true, for offenses strictly criminal or infamous, punishment can only be inflicted through the medium of an indictment or presentment of the grand jury. There are, however, many offenses, made so by statute, which are *quasi* criminal, and where the Legislature may direct the mode of redress, untrameled by this constitutional provision. Such is Sabbath-breaking, selling spirituous liquors on Sunday, and disturbance of religious meetings, with many others. There are many offenses, though decidedly immoral and mischievous in their tendencies, that are not crimes, but, at most, only *quasi* criminal. Of such, jurisdiction may be given to a justice of the peace or the mayor of an incorporated town. *Markle v. Town Council of Akron*, 14 Ohio, 589.

Of the trial  
of accused  
persons and  
their rights.

SEC. 11. That in all criminal prosecutions, the accused hath a right to be heard by himself and his counsel; (1) to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face; to have compulsory process for obtaining witnesses in his favor; and in prosecutions by indictment or presentment, a speedy public trial, by an impartial jury of the county or district in which the offense shall have been committed; (2) and shall not be compelled to give evidence against himself, nor shall he be twice put in jeopardy for the same offense. (3) (*See Const. 1851, Art. I, § 10.*)

(1) On the trial of an indictment for a criminal offense, and at the return of the verdict it is the right of the accused to be present, and if prevented by imprisonment or other improper means, he is entitled to a new trial. *Rose v. The State*, 20 Ohio, 31.

In criminal cases, the verdict should be received in presence of the prisoner, that he may have the jury polled. *Sargent v. The State*, 11 Ohio, 472.

It is not error to omit giving notice to the prisoner's counsel, that he may be present when the verdict is to be delivered by the jury. *Sutcliffe v. The State*, 18 Ohio, 469.

(1) "It is the right of the accused to have a public trial, that he shall meet the witnesses face to face before the public, and that all that can be said or preferred against him, and that all that can be said or urged in his favor, shall be in the hearing and presence of the public. The witnesses shall give their testimony in public, and the court shall declare the law in public; and the jury are sworn to render their verdict according to the law and the evidence thus publicly given. In no other way can the jury be advised of a fact or principle of law touching the case of the accused. It is his right thus to have every body know for what he is tried and why he is condemned, and to witness



the manner, tone and temper of his prosecution, that he may be subjected to no other influence than truth and law, and that mercy which construes every doubt to his benefit. The court charged with his trial have no right to hold any communication with the jury touching his case, except in the presence of the prisoner, and before the public. The court cannot secretly communicate to the jury what they have said respecting the law of the case. It is the right of the accused to know that the court communicate no new principle of law which had not been before publicly declared, nor is he at all bound to trust to the court or judge in this matter. It is his great privilege, and no power can impair it." *Per Read, J., Kirk v. State*, 14 Ohio, 513.

(3) In a capital case, where the jury state they cannot agree, the court may, in their discretion, discharge them, remand the prisoner for another trial, and continue the case. *Hurley v. The State*, 6 Ohio, 400.

After the jury is impaneled and sworn, if a *nolle prosequi* be entered by the prosecuting attorney, with leave of the court, and without the consent of the prisoner, it is a good bar to another indictment for the same crime. A judgment on the verdict of conviction or acquittal is not necessary in order that either may constitute a bar to another indictment for the same offence. *Mounds v. The State*, 14 Ohio, 295.

After a verdict of guilty and judgment reversed, on account of error in the proceedings, the prisoner is not protected from a second trial before a jury by this provision. This rule goes upon the supposition that the accused never was in jeopardy. *Sutcliffe v. The State*, 18 Ohio, 469.

Upon a plea of *autrefois acquit*, the true test to determine whether the accused has been twice put in jeopardy for the same offense, is, whether the facts alleged in the second indictment, if proven to be true, would have warranted a conviction on the first. *Price v. The State*, 19 Ohio, 423.

SEC. 12. That all persons shall be bailable by sufficient sureties, unless for capital offenses, where the proof is evident or the presumption great; (1) and the privilege of the writ of habeas corpus shall not be suspended, unless, when in case of rebellion or invasion, the public safety may require it. (*See Const. 1851, Art. I, §§ 8, 9.*)

Bailable offenses.

Of the writ of habeas corpus.

(1) The court will not, as a matter of course, admit to bail because the jury in a trial for murder have not agreed upon a verdict. *State v. Summons*, 19 Ohio, 130.

Most undoubtedly the same authority which prescribes the amount of bail, and passes upon the sufficiency of the sureties—which exercises the same power in all analogous cases known to our laws—is to decide whether "the proof be evident or the presumption great." If the evidence exhibited on the hearing of the application be of so weak a character that it would not sustain a verdict of guilty against a motion for a new trial, the court will admit to bail. *Ib.*—Spalding, J.

SEC. 13. Excessive bail shall not be required; excessive fines shall not be imposed; nor cruel and unusual punishments inflicted. (*See Const. 1851, Art. I, § 9.*)

Of bail, fine and imprisonment.

Punishment  
to be pro-  
portioned to  
offense.

SEC. 14. All penalties shall be proportioned to the nature of the offense. No wise legislature will affix the same punishment to the crimes of theft, forgery and the like, which they do to those of murder and treason. When the same undistinguished severity is exerted against all offenses, the people are led to forget the real distinction in the crimes themselves, and to commit the most flagrant, with as little compunction as they do the slightest offenses. For the same reasons, a multitude of sanguinary laws are both impolitic and unjust: the true design of all punishments being to reform, not to exterminate, mankind.

Of insolvent  
debtors.

SEC. 15. The person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison, after delivering up his estate for the benefit of his creditor or creditors, in such manner as shall be prescribed by law. (*See Const. 1851, Art. I, § 15.*)

Laws—ex  
post facto—  
relative to  
contracts—  
forfeiture of  
estate, &c.

SEC. 16. No ex post facto law, (1) nor any law impairing the validity of contracts, shall ever be made; (2) and no conviction shall work corruption of blood, or forfeiture of estate. (3) (*See Const. 1851, Art. II, § 28.*)

(1) Retrospective laws that violated no principle of natural justice, but that, on the contrary, were in furtherance of equity and good morals, were not forbidden by this Constitution. "An act to provide for the settlement of the affairs of the Cuyahoga Falls Real Estate Association," 43 Local Laws, 223, was such a law. *Trus. Cuy. F. R. E. A. v. McCaughy*, 2 Ohio St., 152; approving *Lewis v. McElwain*, 16 Ohio, 347; *Johnson v. Bentley*, 16 Ohio, 97; *Bartholemew v. Bentley*, 1 Ohio St., 37; *Kearny v. Buttes*, 1 Ohio St., 362. And see *Hays v. Armstrong*, 7 Ohio, 1 pt. 248; *Bates v. Lewis*, 3 Ohio St., 459.

A state may regulate contracts, and prescribe their form, effect and mode of discharge, and every contract is supposed to be made with reference to the laws in force. But if an attempt should be made to give such laws a retrospective effect, the constitutional objection would arise in all its force; for the Legislature cannot disturb existing contracts or unsettle rights that have already become vested. *Smith v. Parsons*, 1 Ohio, 236; *Bank of Utica v. Card*, 7 Ohio, 2 pt. 170.

A law which, by relation, retrospectively divests one of his previously existing rights, is unconstitutional. *Steamboat Monarch v. Finley*, 10 Ohio, 384.

The act of 1835 (1 Curwen, 210), relating to defects in appeal bonds, was construed to extend to cases pending at the time of its passage. The provision was a remedial one, calculated to aid in the advancement of justice, and there was no constitutional objection to a construction of the act which would give it a retrospective operation. The appellee has no vested right in the forms of administering justice that precludes the Legislature from modifying them and better adapting them to effect their great ends and objects. The law touches no executed power. It does no more than confer jurisdiction in a case pending and undetermined, where such jurisdiction would otherwise fail. *Hays v. Armstrong*, 7 Ohio, 1 pt. 247.

The second section of the act passed January 29, 1833, amendatory

of the act providing for the acknowledgment of deeds, etc., is constitutional and of binding force, notwithstanding its retrospective operation. *Barton v. Morris*, 15 Ohio, 408.

An assignment to a commissioner of insolvents in Ohio has no retroactive effect, like that to bankrupt commissioners. *Ennis v. Hulse*, Wright's Rep., 259.

An act of the Legislature that divests vested rights and violates contracts, or that assumes to control or to exercise judicial powers, is unconstitutional and void. But the act of March 9, 1835, **curing certain defects in the certificate of acknowledgment of deeds** (1 Curwen, 240), was not liable to either of these objections, and was a valid law. For a confirmatory act, that merely assumed to cure an informality in the certificate of a magistrate, creating no new title and affecting no right but such as equitably flowed from the grantor—that merely accomplished what upon principles of natural justice a court of chancery ought to decree—may have a retrospective operation when the manifest design of the Legislature was that it should thus operate. *Chestnut v. Shane*, 16 Ohio, 599; overruling *Connell v. Connell*, 6 Ohio, 358; *Good v. Zercher*, 12 Ohio, 364; *Meddock v. Williams*, 12 Ohio, 377; *Silliman v. Cummings*, 13 Ohio, 116.

The third section of the act of March 19, 1850 (2 Curwen, 1578), provides, "that whenever a defendant in any judgment or decree, or the surety or co-sureties of any such defendants, shall by mistake have directed any execution, issued on such judgment or decree, to be levied on any property not liable to such execution, and shall thereby have caused such judgment or decree to be wholly or in part satisfied, and shall have been compelled to pay the owner of such property therefor, he shall, in all actions now pending or hereafter instituted, be adjudged to have the same rights against any co-defendant in such judgment, and against any co-surety or principal in respect of the debt on which such is founded, as though such satisfaction had, by due process of law, been out of the property of such defendant, surety or co-surety so directing said levy: Held, that the statute had not changed the law, but was declaratory of it; and that even if it had effected a change, the law in its application to cases pending at the time of its passage, was not in contravention of the Constitution. *Acheson v. Miller*, 2 Ohio St., 203-207.

2. A law regulating judgments and executions cannot be considered as a law which enters into the nature of contracts, or which the parties have in view when they contract. A law which provided that judgment creditors, who had not sued out and levied execution within one year from the date of judgment, lost their liens as against subsequent judgment creditors, who had not sued out and levied execution within one year, and which applied to judgments rendered as well before as after the enactment of the law, was held not to be unconstitutional as impairing vested rights, or changing the nature of the contract. *McCormick v. Alexander*, 2 Ohio, 65; *Waymire v. Staley*, 3 Ohio, 366. And see *Corwin v. Benham*, 2 Ohio St., 36.

State insolvent laws discharging debtors from the debt upon surrendering up all their property, are constitutional and valid as to contracts

made between citizens of the same state within its jurisdiction, after the law was enacted and in force. *Smith v. Parsons*, 1 Ohio, 236; *Bank of Utica v. Card*, 7 Ohio, pt. 2, 170.

An act abolishing imprisonment for debt, and which operated to discharge a debtor confined on the prison limits before the act took effect, was not a law impairing the obligation of contracts, as it effected the remedy but not the contract. *Parker v. Sterling*, 10 Ohio, 357.

The right to imprison constitutes no part of the contract, and a discharge of a party from imprisonment does not impair the obligation of the contract. *Toursey v. Avery*, 11 Ohio, 93.

The act of the General Assembly of the state exacting toll upon passengers carried by mail stages on the Cumberland road, in Ohio, is constitutional. *State v. Neil*, 7 Ohio, 1 pt., 132. But see same case on error, 3 Howard, Sup. Ct. U. S., 720, where it was held that the act was in violation of the compact between the state and the United States, under which the state took the road, and therefore void.

Where a statute exempted forever certain lands of the Athens University from taxation, and the same lands were afterwards sold by the University, a subsequent statute authorizing a tax to be levied on the lands, is not a violation of that clause of the Constitution of the United States which prohibits a state from passing any law impairing the obligations of contracts. *Armstrong v. Treas. of Athens Co.*, 10 Ohio, 235.

Where the state, by an act incorporating the Ohio University, vested in that institution two townships of land for the support of the University and instruction of youth, and in the same act authorized the University to lease said lands for ninety-nine years, renewable forever, and provided that lands thus to be leased should forever thereafter be exempt from all state taxes, held: That the acceptance of such leases at a fixed rent or rate of purchase by the lessees constitutes a binding contract between the state and the lessees. And a subsequent act of the Legislature levying a state tax on such lands, is a "law impairing the obligation of contracts," within the purview of the tenth section of the first article of the Constitution of the United States, and is, therefore, *pro tanto*, null and void. *Matheny v. Golden*, 5 Ohio St., 361.

In respect to public corporations which exist only for public purposes—as counties, cities and towns—the Legislature, under proper limitations, have a right to change, modify, enlarge or restrain them. *Marietta v. Fearing*, 4 Ohio, 427.

A license to practice a profession is not a contract which confers any vested privileges, but is liable to be modified in any manner which the public welfare may demand. *State v. Gazlay*, 5 Ohio, 22.

The law forfeiting tenants' estate for non-payment of taxes is constitutional. *McMillan v. Robbins*, 5 Ohio, 28.

A subsequent law, which undertakes to make valid a contract wholly void when made, is beyond the limits of just legislation, and in violation of fundamental principles and constitutional rights. *Johnson v. Bentley*, 16 Ohio, 104.

The act of March 5, 1842 (2 Curwen, 880), regulating the mode of collecting debts against turnpike companies, in which the state is a party, is not a law impairing the obligations of a contract, and is therefore constitutional. *State v. Great M. T. Co.*, 14 Ohio, 405.

The provisions of the act of March, 1842, to regulate judicial proceedings where banks and bankers are parties, requiring the sheriff to receive bank-notes in satisfaction of execution in favor of a bank, etc., are not in contravention of this provision of this Constitution. *Bank of Gallipolis v. Domigan*, 12 Ohio, 220.

The 26th section of the act amendatory of the tax law, which taxes rents reserved in leases for a term of fourteen years or upwards, renewable, and chargeable upon real property, which rents are to be assessed to the person entitled to receive the same, as personal property, at a principal sum the interest of which, at the legal rate per annum, shall produce a sum equal to such rents, is constitutional. *Loring v. The State*, 16 Ohio, 590.

In 1845 the Legislature passed a general banking law, the fifty-ninth section of which required the officers to make semi-annual dividends, and the sixtieth required them to set off six per cent. of such dividends for the use of the state, which sum or amount so set off should be in lieu of all taxes to which the company, or the stockholders therein, would otherwise be subject. On March 21, 1851, an act was passed entitled "An act to tax banks, and bank and other stocks, the same as property is now taxable by the laws of this state." The operation of this law being to increase the tax, the question arose whether the latter act, as far as it applied to banks organized under the act of 1845, was an act impairing the obligation of a contract, and in contravention of the tenth section of the first article of the Constitution of the United States. In a series of decisions—*Mechanics' and Traders' Bank v. Debolt*, 1 Ohio St., 591; *Toledo Bank v. Bond*, 1 Ohio St., 622; *Piqua Br. Bank v. Knoup*, 1 Ohio St., 603; *Sandusky City Bank v. Wilbur*, 7 Ohio St., 481; *Skelly v. Jefferson Branch Bank*, 9 Ohio St., 606—it was held by the Supreme Court of the state that an ordinary charter was not a contract. But the Supreme Court of the United States reversed those decisions in the cases of *Piqua Br. Bank v. Knoup*, 16 Howard, 369; *Dodge v. Woolsey*, 18 Howard, 331; *Mechanics' and Traders' Bank v. Debolt*, 18 Howard, 330; *Jefferson Branch Bank v. Skelly*, 1 Black, 436, holding that the charters of the banks were contracts fixing the amount of taxation, and not a law prescribing a rule of taxation until changed by the Legislature. And therefore the act of 1851 was unconstitutional.

(3) The act of 1824 (2 Chase, 1362, § 14), in relation to the forfeiture of estates for the non-payment of taxes, is constitutional. The constitutional provision against the forfeiture of estates has reference only to forfeitures incident to a conviction for crime. Nor is the statute in any sense retrospective. *McMillan v. Robbins*, 5 Ohio, 28.

In England, the conviction of many offenses works "corruption of blood and forfeiture of estate." The forfeiture is to the king. The blood is corrupted. The attainted person can neither inherit from his ancestors, nor can he transmit inheritance. His property is not given to his heirs, but, by the forfeiture, is taken from them. The effects of the crime of the father are thus visited upon his children. It was against such a state of things that the Convention intended to provide. A man sentenced to imprisonment for life in the penitentiary, in pun-

ishment for crime, is not civilly dead, and letters of administration cannot be granted on his estate. *Frazer v. Fulcher*, 17 Ohio, 260.

Transportation for crimes.

SEC. 17. That no person shall be liable to be transported out of this state, for any offense committed within the state. (*See Const. 1851, Art. I, § 12.*)

Of recurrence to the organic law.

SEC. 18. That a frequent recurrence to the fundamental principles of civil government, is absolutely necessary to preserve the blessings of liberty.

Of the right to assemble.

SEC. 19. That the people have a right to assemble together, in a peaceable manner, to consult for their common good, to instruct their representatives, and to apply to the legislature for a redress of grievances. (*See Const. 1851, Art. I, § 3.*)

Of bearing arms; standing armies; subordination of military power.

SEC. 20. That the people have a right to bear arms for the defense of themselves and the state: and as standing armies in time of peace, are dangerous to liberty, they shall not be kept up; and that the military shall be kept under strict subordination to the civil power. (*See Const. 1851, Art. I, § 4.*)

The military in all governments is an arm of the executive department, and not a distinct department. *State v. Coulter*, Wright's Rep., 421.

Where a body of militia performs their evolutions with martial music and firing, so near the court-house as to interrupt or suspend the business of the court, the officers may be proceeded against for a contempt, if they refuse to desist on request. *Ib.*; and *State v. Goff*, Wright's Rep., 78.

Corporal punishment under military rule.

SEC. 21. That no person in this state, except such as are employed in the army or navy of the United State, or militia in actual service, shall be subject to corporal punishment under the military law.

Of quartering troops.

SEC. 22. That no soldier, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in the manner prescribed by law. (*See Const. 1851, Art. I, § 13.*)

Of poll tax.

SEC. 23. That the levying taxes by the poll is grievous and oppressive; therefore, the legislature shall never levy a poll tax for county or state purposes. (*See Const. 1851, Art. XII, § 1.*)

|| A tax assessed upon the members of a profession, upon account of their practice, is constitutional, being not a poll but a faculty tax, and may be legally assessed by the judicial tribunals. *State v. Gaslay*, 5 Ohio, 14; *State v. Hibbard*, 3 Ohio, 63.

A city ordinance requiring a reasonable sum from draymen, by way of excise on their special employment, was held not to be unlawful. *Cincinnati v. Bryson*, 15 Ohio, 625.

So with an ordinance requiring twenty-five cents from persons occupying stalls in the market-place. *Cincinnati v. Buckingham*, 10 Ohio, 257.

SEC. 24. That no hereditary emoluments, privileges or honors, shall ever be granted or conferred by this state. (*See Const. 1851, Art. I, § 17.*)

Hereditary privileges, etc.

SEC. 25. That no law shall be passed to prevent the poor in the several counties and townships within this state from an equal participation in the schools, academies, colleges and universities within this state, which are endowed, in whole or in part, from the revenue arising from donations made by the United States, for the support of schools and colleges; and the doors of the said schools, academies and universities, shall be open for the reception of scholars, students and teachers, of every grade, without any distinction or preference whatever, contrary to the intent for which said donations were made.

Of schools and poor children.

The act of February 20th, 1849 (2 Curwen, 1469), to authorize the establishment of separate schools for the education of colored children, and for other purposes, is constitutional. The whole subject of organizing and regulating schools is very properly left to the General Assembly in the exercise of its legislative powers, and, as a matter of policy, it is unquestionably better that the white and colored youths should be placed in separate schools, and that the school fund should be divided to them in proportion to their numbers. *State v. Cincinnati*, 19 Ohio, 178.

SEC. 26. That laws shall be passed by the legislature, which shall secure to each and every denomination of religious societies, in each surveyed township which now is, or may hereafter be formed in the state, an equal participation, according to their number of adherents, (1) of the profits arising from the land granted by congress, for the support of religion, agreeably to the ordinance or act of congress, making the appropriation.

Disposition of proceeds of sec. 29.

(1) The sect claiming must have formed themselves into a society, and must have given themselves a name. It is not enough that there are individuals who are members of Christian churches residing within the township. A society must be actually formed and known by name. It is not necessary that the individuals should be citizens in order to be *adherents* to a religious society. *State v. Trustees, etc.*, 11 Ohio, 24.

SEC. 27. That every association of persons, when regularly formed, within this state, and having given themselves a name, may, on application to the legislature, be entitled to receive letters of incorporation, to enable them to hold estates, real and personal, for the support of their schools, academies, colleges, universities, and for other purposes.

Incorporation of literary societies.

SEC. 28. To guard against the transgression of the high powers which we have delegated, we declare, that all powers not hereby delegated, remain with the people. (*See Const. 1851, Art. I, § 20.*)

Powers reserved to the people.

## SCHEDULE.

Of former  
suits and  
claims.

SEC. 1. That no evils or inconveniencies may arise, from the change of a territorial government to a permanent state government, it is declared by this convention, that all rights, suits, actions, prosecutions, claims and contracts, both as it respects individuals and bodies corporate, shall continue, as if no change had taken place in this government. (*See Const. 1851, Sched. § 1.*)

Of former  
fines and  
official  
bonds.

SEC. 2. All fines, penalties and forfeitures, due and owing to the territory of the United States, north-west of the river Ohio, shall inure to the use of the state. All bonds executed to the governor, or any other officer in his official capacity, in the territory, shall pass over to the governor or the other officers of the state, and their successors in office, for the use of the state, or by him or them to be respectively assigned over to the use of those concerned, as the case may be.

Of former  
officers.

SEC. 3. The governor, secretary and judges, and all other officers under the territorial government, shall continue in the exercise of the duties of their respective departments, until the said officers are superseded under the authority of this constitution. (*See Const. 1851, Sched. § 10.*)

Of prior  
laws.

SEC. 4. All laws, and parts of laws, now in force in this territory, not inconsistent with this constitution, shall continue and remain in full effect, until repealed by the legislature, except so much of the act, entitled an "Act regulating the admission and practice of attorneys and counselors at law," and of the act made amendatory thereto, as relates to the term of time which the applicant shall have studied law, his residence within the territory, and the term of time which he shall have practiced as an attorney at law, before he can be admitted to the degree of a counselor at law. (*See Const. 1851, Sched. § 1.*)

Temporary  
state seal.  
The first  
election.

SEC. 5. The governor of the state shall make use of his private seal, until a state seal be procured.

SEC. 6. The president of the convention shall issue writs of election to the sheriffs of the several counties, requiring them to proceed to the election of a governor, members of the general assembly, sheriffs and coroners, at the respective election districts in each county, on the second Tuesday of January next; which elections shall be conducted in the manner prescribed by the existing election laws of this territory: and the members of the general assembly, then elected, shall continue to exercise the duties of their respective offices until the next annual or biennial election thereafter, as prescribed in this constitution, and no longer.

The first ap-  
portionment  
of represent-  
ation.

SEC. 7. Until the first enumeration shall be made, as directed in the second section of the first article of this constitution, the county of Hamilton shall be entitled to four senators and eight representatives; the county of Clermont, one senator and two representatives; the county of Adams, one senator and three representatives; the county of Ross, two senators and four representatives; the county of Fairfield,



one senator and two representatives; the county of Washington, two senators and three representatives; the county of Belmont, one senator and two representatives; the county of Jefferson, two senators and four representatives; and the county of Trumbull, one senator and two representatives.

Done in convention, at Chillicothe, the 29th day of November, in the year of our Lord one thousand eight hundred and two, and of the independence of the United States of America the twenty-seventh.

In testimony whereof, we have hereunto subscribed our names.

EDWARD TIFFIN, *President*,  
and Representative from the county of Ross.

JOSEPH DARLINGTON,	}	Adams county.
ISRAEL DONALSON,		
THOMAS KIRKER,		

JAMES CALDWELL,	}	Belmont county.
ELIJAH WOODS,		

PHILIP GATCH,	}	Clermont county.
JAMES SARGENT,		

HENRY ABRAMS,	}	Fairfield county.
EMANUEL CARPENTER,		

JOHN W. BROWNE,	}	Hamilton county.
CHARLES WILLING BYRD,		
FRANCIS DUNLAVY,		
WILLIAM GOFORTH,		
JOHN KITCHEL,		
JEREMIAH MORROW,		
JOHN PAUL,		
JOHN REILY,		
JOHN SMITH,		
JOHN WILSON,		

RUDOLPH BAIR,	}	Jefferson county.
GEORGE HUMPHREY,		
JOHN MILLIGAN,		
NATHAN UPDEGRAFF,		
BAZALEEL WELLS,		

MICHAEL BALDWIN,	}	Ross county.
JAMES GRUBB,		
NATHANIEL MASSIE,		
THOMAS WORTHINGTON,		

DAVID ABBOTT,	}	Trumbull county.
SAMUEL HUNTINGTON,		

EPHRAIM CUTLER,	}	Washington county.
BENJAMIN IVES GILMAN,		
JOHN MCINTYRE,		
RUFUS PUTNAM,		

Attest:

THOMAS SCOTT, *Sec'y.*  
3—AP.

# CONSTITUTION OF THE STATE OF OHIO.

(ADOPTED A. D. 1851.)

We, the people of the State of Ohio, (1) grateful to Almighty God for our freedom, to secure its blessings and promote our common welfare, do establish this Constitution.

(1) For original boundary lines of Ohio, see act of Congress approved April 30, 1802. 1 Chase, 70.

For a complete history of the question of boundary between Ohio and Michigan, see *Daniels v. Stevens*, 19 Ohio, 239; *Myers v. Manhattan Bank*, 20 Ohio, 283.

In *Booth v. Hubbard*, 8 Ohio St., 243, it was held, that the territorial limits of this State extend on the south-east, at least to the line of ordinary low water-mark on the north-west side of the Ohio River. The court said: "It does not become necessary, in this case, to determine whether the middle of the Ohio River, the *filum medium aquæ*, does or does not constitute the boundary line between the States of Virginia and Ohio." Page 245.

However it may be as to our boundary, so far as territory is concerned, it seems that as to navigation and authority with respect to matters civil and criminal, Ohio has jurisdiction concurrent with Virginia and Kentucky over the entire river, along the borders of those states. The question was much considered in the commission that grew out of what is known as the Parkersburg case; and full abstracts of the arguments will be found in the *Western Law Journal*, vol. 4, pp. 145-164; vol. 5, pp. 433-437. See also *Eckerts v. Cokvin*, 1 West. Law Jour., 54—Wood and Read, JJ.; *Ohio v. Stephens*, 2 West. Law Jour., 66; s. c. in error, 14 Ohio, 386; 3 West. Law Jour., 310, 337; *McCulloch v. Aten*, 2 Ohio, 308; *Benner v. Platter*, 6 Ohio, 505; *Blanchard v. Porter*, 11 Ohio, 138. See *Const. 1802, Art. VII, § 6*.

2 Debates, 231, 326, 826, 856, 870.

## ARTICLE I.

### BILL OF RIGHTS.

Right to freedom and protection of property.

SECTION 1. All men are, by nature, free (1) and independent, and have certain inalienable rights, among which are those of enjoying and defending (2) life and liberty, acquiring, possessing, and protecting property, (3) and seeking and obtaining happiness and safety. (*See Const. 1802, Art. VIII, § 1.*)

(1) The presumption is that every person in the state, whether a citizen or not, comes within the provision. *Birney v. State*, 8 Ohio, 230-238. "The absolute and equal freedom of all persons at birth is a funda-

mental principle of American institutions, proclaimed with independence and incapable of abrogation. This principle was, by the Ordinance of 1787, impressed on the soil of Ohio, before there was an organized community within her limits; it is fundamental in her organization; always embodied in her Constitution; and her laws, her policy, and the convictions, the morals, and the religion of her people are instinct with its spirit." *Anderson v. Poindexter*, 6 Ohio St., 822-834—Brinkerhoff, J.

(2) "It is urged that the law in Ohio is, that a person assailed may in all cases, without retreating, take his assailant's life, if he reasonably believe it necessary to do so in order to save his own life, or to avoid great bodily harm, and this, although he could, without increasing his danger, retire, and thereby escape all necessity of slaying his adversary. As to what is the precise state of the law on this subject, there is some diversity of opinion among the members of this court, and therefore, without attempting at this time to lay it down, we prefer to dispose of the case upon a view which is satisfactory to us all. . . . Whether a person assaulted is or is not bound to quit the combat, if he can safely do so, before taking life, it will not be denied that, in order to justify the homicide, he must, at least, reasonably apprehend the loss of his own life or great bodily harm, to prevent which, and under a real or supposed necessity, the fatal blow must be given. And again, the combat must not have been of his own seeking, and he must not have put himself in the way of being assaulted, in order that when assaulted and hard pressed he might take the life of his assailant." *Stewart v. State*, 1 Ohio St., 66-72—Thurman, J.

With respect to the service, beyond the limits of Ohio, of a writ issued by a justice of the peace, the court said: "No legal or moral obligation required the constable to attempt its execution in Indiana, and an arrest made upon it there, was a violation of both public and private rights. Services rendered under such circumstances are both voluntary and without authority of law." *Smith v. Portage Co.*, 9 Ohio, 25-28—Wood, J.

Whether jurisdiction acquired over the person by bringing the party within our territorial limits, forcibly or fraudulently, can be maintained, see *ex parte Everts*, 2 Disney's Rep.; *Gill v. Miner*, 13 Ohio St., 182, and cases there cited.

(3) "When the nature of the question, and the history of the rulings on the subject of defending person and property, which have illustrated the advancement of the common law from rude and barbarous to refined and enlightened civilization, are clearly taken into view, we shall find the reasoning of Justice Redfield altogether safe, and exactly in harmony with the system of government and society to which it is applied. It is well settled, says the Justice (in *State v. Downer*, 8 Vermont, 424), that one may defend the possession of his property against a stranger with such force as may be necessary. But this right cannot be extended to the case of an officer, whose duty it is to attach property whenever he is requested so to do. He may or may not require indemnity for the act. But it would be too much to say that he must decide all questions of doubtful property at his own hazard, or that if he attempted to make an attachment when the property was not, in

fact, in the debtor, he might, by the owner of the property, be resisted to any extremity. . . . It must be familiar to all, that while the tendency of the best and highest American decisions, as well as the very genius of our government, are favorable to an increased regard for the sanctity of the person, by the same law many measures of defense as to property have become obsolete and shocking to the enlightened humanity of the day. If the rule that one must retreat to the wall before killing his assailant has passed away, so has the day of man-traps and spring-guns. . . . We hold, then, the better and safer and only practicable rule to be, that whenever the question of property is so doubtful that the creditor and officer may be supposed to act, and do act, in good faith, and on reasonable grounds for believing the property to be that of the debtor, the owner has no right to resist the execution or attachment by a breach of the peace." Again: "The conversion of an execution into an alias writ cannot affect the protection due to the constable to whom it was delivered. . . . It was irregular, but not void." *Faris v. State*, 3 Ohio St., 159-166, 168—Warden, J.

2 Debates, 231, 326, 806, 826, 856, 870.

Right to  
alter, reform  
or abolish  
government,  
and repeal  
special  
privileges.

SEC. 2. All political power is inherent in the people. (1) Government is instituted for their equal protection and benefit, and they have the right to alter, reform, or abolish the same, whenever they may deem it necessary; and no special privileges or immunities shall ever be granted, that may not be altered, revoked, or repealed by the general assembly. (*See Const. 1802, Art. VIII, § 1.*)

(1) "The Constitution apportions political power among the inhabitants of the state as nearly equally as possible, in proportion to numbers, without any regard whatever to property, or indeed to any other circumstance. Inhabitants alone are represented: a given number in one place exercise the same political power as a like number in any other locality." *State v. Dudley*, 1 Ohio St., 437-442—Ranney, J.

2 Debates, 231, 326, 466-468, 476-483, 485-493, 498-550, 556-559, 688-693, 806, 826 856,, 870.

Of the right  
to assemble.

SEC. 3. The people have the right to assemble together, in a peaceable manner, to consult for their common good; to instruct their representatives; and to petition the general assembly for the redress of grievances. (*See Const. 1802, Art. VIII, § 19.*)

The Legislature, from an early day, has exercised the power of regulating the mode of petitioning, what the petition shall contain, the time it may be in circulation, and the notice thereof that must be given. 1 Swan & Critchfield, 919.

2 Debates, 231, 326, 462, 806, 826, 856, 870.

Of bearing  
arms; stand-  
ing armies;  
subordina-  
tion of mili-  
tary power.

SEC. 4. The people have the right to bear arms for their defense and security; but standing armies, in time of peace, are dangerous to liberty, and shall not be kept up; and the military shall be in strict subordination to the civil power. (*See Const. 1802, Art. VIII, § 20.*)

Where a body of militia perform their evolutions, with martial music and firing, so near the court-house as to interrupt or suspend the business of the court, the officers may be proceeded against for a contempt, if they refuse to desist on request. *State v. Coulter*, Wright's Rep., 421; *State v. Goff*, Ib., 78.

In the first of these cases the court said: "This clause in the Constitution clearly shows the light in which the framers of this instrument viewed a resort to mercenary troops in any degree independent of the civil authority. They held such a force dangerous to liberty, and that unalterably and forever to regard it so, was a great and essential principle of liberty and free government. The determination was to constitute the militia, as only a portion of the executive authority, upon whom was devolved the duty of executing the laws and protecting its ministers from violence. It is declared a duty equally essential to liberty to regard even the militia a military force, to be forever kept under strict subordination to the civil authority. The fathers of the Republic had studied human nature deeply. Devoted to free institutions, they were jealous of any influence tending to their destruction. Hence the emphatic annunciation of the essential principle, that the military should be kept under strict subordination to the civil authority. Not a word is found in the Constitution giving countenance to the opinion sometimes expressed, and more frequently felt, that the militia or the military force, instead of being a means to be employed by the executive department in executing the important duty of executing the laws, are a distinct department of the government, equal to either of the others, and independent of their control." 424, 425—Wood and Wright, JJ.

2 Debates, 231, 326, 462, 806, 826, 856, 870.

SEC. 5. The right of trial by jury shall be inviolate.  
(*See Const. 1802, Art. VIII, § 8.*)

Trial by  
jury.

A jury is defined to be "a convenient number of citizens, selected and impartial, who, on particular occasions, or in particular causes, are vested with discretionary powers to try the truth of facts, on which depend the property, the liberty, the reputation and the lives of their fellow citizens." It is "a certain number of men sworn to inquire of and try a matter of fact, and declare the truth upon such evidence as shall be given them in a cause; and they are sworn judges upon evidence in matters of fact." "The occupying claimant laws of Ohio came under the consideration of the Supreme Court in the case of the *Bank of Hamilton v. Dudley*, 2 Peters, 133. In that case the court concede that the state has the power to secure to claimants of lands their possessions until paid for lasting improvements made by them on the land, but denies the power of the state, by its enactments, to 'change; radically, the mode of proceeding prescribed for the courts of the United States, or direct those courts, in a trial at common law, to appoint commissioners for the decision of questions which a court of common law must submit to a jury.' Such a proceeding, the court suppose, would conflict with the clause in the Constitution of the United States, which declares that 'in suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be

preserved.' It appears to us obvious that the provision of the Constitution just quoted, applies only to the courts of the United States, and does not prescribe a rule of practice for the courts of a state. . . . Indeed, we are unable to discover wherein the law of Ohio conflicts with the Constitution of Ohio. Were we to decide otherwise, there is a series of legislative acts, commencing with the organization of our government and continuing to this time, that we should be compelled to declare void. We allude to enactments providing juries in cases of forcible entry and detainer, for the trial of the rights of property, . . . for inquiry in cases of idiocy and lunacy," etc. *Hunt v. McMaham*, 5 Ohio, 132-135—Wright, J.

"The only way in which we can ascertain the true meaning of this clause, is by making inquiry whether, before the Constitution was framed, jury trial was known in such cases in the Territory of Ohio. . . . On what principle is it that juries are dispensed with in the greater number of our courts—in courts of equity, courts of admiralty, courts martial and courts of justices of the peace? Magna Charta declares that no man shall be deprived of life, liberty or property, but by the judgment of his peers or the law of the land. Mr. Sullivan (§ 39, 40) remarks that, as juries were unknown in those courts before the great charter, their disuse constituted a part of the law of the land; and therefore, although the charter was the first great instrument which solemnly guaranteed jury trial to Englishmen, yet it has never been supposed that that institution constituted a part of the machinery of those courts. . . . He who will take the trouble to examine our laws, as well before as since the formation of our Constitution, will find that they are uniformly regarded as an appendage to the courts only. No juries are ever mentioned but such as are auxiliary to the administration of justice in some court. . . . Objections of this kind should ever be listened to with attention and earnestness; for, although, to decide upon the constitutionality of a law, is a duty which no judge should court, yet it is also one from which no judge should shrink." *Willyard v. Hamilton*, 7 Ohio, 2 pt., 111-118—Grimke, J.

"By the first of these sections (§ 5) the right of trial by jury is recognized to exist, and its continuance unimpeached is provided for. By the last (§ 10) this right is declared to belong to every person accused of any crime or offense, in any court of the state. What, then, is this right? It is nowhere defined or described in the Constitution. It is spoken of as something already sufficiently understood, and referred to as a matter already familiar to the public mind. The same article furnishes other examples of the same generality of expression. . . . If ages of uninterrupted use can give significance to language, the right of jury trial and the habeas corpus stand as representatives of ideas as certain and definite as any other in the whole range of legal learning. The institution of the jury referred to in our Constitution, and its benefits secured to every person accused of crime, is precisely the same, in every substantial respect, as that recognized in the great charter, and its benefits secured to the freemen of England, and again and again acknowledged in fundamental compacts as the great safeguard of life, liberty and property; the same brought to this country by our forefathers, and perseveringly claimed as their birthright in

every contest with arbitrary power; and, finally, an invasion of its privileges prominently assigned as one of the causes which was to justify them in the eyes of mankind in waging the contest which resulted in independence. . . . We do not intend to imply a doubt of the constitutionality of the act allowing juries before justices of the peace, composed of six men. Wherever facts are to be found in any proceeding, in which a jury was not required by the common law, a jury of any number may be authorized, within the discretion of the legislative body. Juries did not belong to these inferior courts at the common law; and so long as an appeal is provided for to the common law courts from their determination, it is clear no constitutional objection can arise, whether facts are found by the magistrate, or by the aid of a jury of any number of men." *Work v. State*, 2 Ohio St., 296-302—Ranney, J.; *Norton v. McLeary*, 8 Ohio St., 209.

It is beyond the power of the General Assembly to impair the right or materially vary its character. The number of jurors cannot be diminished, or a verdict authorized short of a unanimous concurrence of all the jurors. It follows that the act of March 14, 1853, "defining the jurisdiction and regulating the practice of probate courts" (51 O. L., 167; S. & C., 1212), in so far as it provides for a jury of six only, and authorizes a conviction upon their finding, is unconstitutional and void. *Work v. State*, 2 Ohio St., 296. But the act of May 1, 1854, "to extend the jurisdiction of justices of the peace," etc. (52 O. L., 100; S. & C., 770), is not unconstitutional, although it makes no provision for the trial, by a jury of twelve men, of actions commenced in virtue of such extended jurisdiction. *Norton v. McLeary*, 8 Ohio St., 205. "It is true that the act may subject the defendant to a trial, before a justice of the peace, before he can obtain a trial by jury; still the right of trial by jury remains unimpaired and perfect. The mode of obtaining it may be more inconvenient than heretofore. But on this subject a discretion is given to the Legislature, which must be so far abused as to be clearly violative of the substantial right, before this court can interfere to nullify legislative action." *Ib.*, 209—Scott, J.; See also *Reckner v. Warner*, 22 Ohio St., 275—McIlvaine, J.

In an action for the recovery of money, wherein the only relief prayed for is a money judgment, either party is entitled to demand a trial by jury, notwithstanding numerous items of account or of claim and counter-claim are involved in the issue. *Averill Coal and Oil Co. v. Verner*, 22 Ohio St., 372. *Ib.*

In such action the defendant, though in default of answer, is entitled under section 598 of the code to demand a jury to assess damages. And if it be irregular in such case for the court to make an order (on the motion of the plaintiff and against the objection of defendant) referring the cause to a referee for trial, and granting leave to defendant to answer generally, at a future day, such irregularity is cured if the defendant, after answer is filed, appear before the referee, and, without protest or objection to his jurisdiction, submit his cause to him upon the issues and proofs.

See Art. I, § 10, Note 5; Art. I, § 19, Note 7; Art. XIII, § 5, Note 6.

2 Debates, 231, 326, 327, 462, 806, 826, 857, 870.

Of slavery  
and involun-  
tary servi-  
tude.

Of the rights  
of con-  
science.

The neces-  
sity of relig-  
ion and  
knowledge.

SEC. 6. There shall be no slavery in this state; nor involuntary servitude, unless for the punishment of crime. (*See Const. 1802, Art. VIII, § 2.*)

2 Debates, 231, 327, 806, 826, 857, 870.

SEC. 7. All persons have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience. No person shall be compelled to attend, erect, or support any place of worship, or maintain any form of worship, against his consent; and no preference shall be given, by law, to any religious society; nor shall any interference with the rights of conscience be permitted. (1) No religious test shall be required, as a qualification for office, nor shall any person be incompetent to be a witness on account of his religious belief; but nothing herein shall be construed to dispense with oaths and affirmations. Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the general assembly to pass suitable laws, to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and the means of instruction. (2) (*See Const. 1802, Art. VIII, § 3, 25.*)

(1) "Neither Christianity nor any other system of religion is a part of the law of this state. We sometimes hear it said that all religions are tolerated in Ohio; but the expression is not strictly accurate; much less accurate is it to say that one religion is a part of our law, and all others only tolerated. It is not by mere toleration that every individual here is protected in his belief or disbelief. He reposes not upon the leniency of government, or the liberality of any class or sect of men, but upon his natural, indefeasible rights of conscience, which, in the language of the Constitution, are beyond the control or interference of any human authority. We have no union of church and state, nor has our government ever been vested with authority to enforce any religious observance simply because it is religious. Of course it is no objection, but, on the contrary, is a high recommendation to a legislative enactment, based upon justice or public policy, that it is found to coincide with the precepts of a pure religion; but the fact is nevertheless true, that the power to make the law rests in the legislative control over things temporal, and not over things spiritual. Thus, the statute prohibiting common labor on the Sabbath (1 Curwen, 208; S. & C., 447), could not stand for a moment as the law of this state, if its sole foundation was the Christian duty of keeping that day holy, and its sole motive to enforce the observance of that duty. For no power over things merely spiritual has ever been delegated to the government, while any preference of one religion over another, as the statute would give upon the above hypothesis, is directly prohibited by the Constitution. Acts evil in their nature, or dangerous to the public welfare, may be forbidden and punished, though sanctioned by one religion and prohibited by another; but this creates no preference whatever, for they would be equally forbidden and punished if all religions permitted them. Thus, no plea of his religion could shield a murderer, ravisher or bigamist; for community would be at the mercy of super-



stitution, if such crimes as these could be committed with impunity, because sanctioned by some religious delusion." *Bloom v. Richards*, 2 Ohio St., 387-390—Thurman, J.; *McGatrick v. Wason*, 4 Ohio St., 566.

"The statute prohibiting common labor on the Sabbath is to be regarded as a mere municipal or police regulation, whose validity is neither strengthened nor weakened by the fact that the day of rest it enjoins is the Sabbath day. Wisdom requires that men should refrain from labor at least one day in seven, and the advantages of having the day of rest fixed, and so fixed as to happen at regularly recurring intervals, are too obvious to be overlooked. It was within the constitutional competency of the General Assembly to require this cessation of labor and to name the day of rest. It did so by the act referred to, and, in accordance with the feelings of a majority of the people, the Christian Sabbath was very properly selected. But, regarded merely as an exertion of legislative authority, the act would have had neither more nor less validity had any other day been adopted." *Ib.*, 391; *Sellers v. Dugan*, 18 Ohio, 489-490—Avery, J.

(2) "The system of public education in Ohio is the creature of the Constitution and statutory laws of the State. It is left to the discretion of the General Assembly, in the exercise of the general legislative power conferred upon it (Art. II, § 1), to determine what laws are "suitable" to secure the organization and management of the contemplated system of common schools, without express restriction, except that 'no religious or other sect or sects shall ever have any exclusive right to, or control of, any part of the school funds of this State.'" (Art. VI, § 2.) *State v. McCann*, 21 Ohio St., 198-205—Day, J.

Under the Constitution and laws of the state, the right to classify the youth of the state for school purposes, on the basis of color, and to assign them to separate schools for education, both upon well recognized legal principles and repeated adjudications, is too firmly established to be now judicially disturbed. *Ib.*, 208; *State v. City of Cincinnati*, 19 Ohio, 178; *Van Camp v. Board of Education of Logan*, 9 Ohio St., 406.

2 Debates, 231, 327, 328, 462, 463, 466, 469, 806, 826, 857, 870.

SEC. 8. The privilege of the writ of habeas corpus shall not be suspended, unless, in cases of rebellion or invasion, the public safety require it. (*See Const. 1802, Art. VIII, § 12.*)

Of the writ  
of habeas  
corpus.

"In what does the privilege of this great bulwark of personal liberty consist? The Constitution furnishes no answer, nor was it necessary that it should. If ages of uninterrupted use can give significance to language, the right of jury trial and the habeas corpus stand as representatives of ideas as certain and definite as any other in the whole range of legal learning." *Worck v. State*, 2 Ohio St., 296-302—Ranney, J.

"The privilege of the writ of habeas corpus is secured by our national and state constitutions to every citizen. It can only be suspended or withheld in cases of rebellion or invasion, when the public safety may require it. Subject to that reserved right of the national or state governments, to be employed in the extreme cases named, each citizen is vested with this ancient and sacred shield of liberty. To the judicial department of the government is delegated the duty

of enforcing applications for its invaluable benefits, when properly demanded. Our statute relating to the subject gives to the judges of the courts, separately, at chambers, jurisdiction of the subject-matter in all cases, except when the person is convicted of a crime or offense, and stands committed for it; or where he is committed for treason or felony, the punishment whereof is capital, plainly expressed in the warrant of commitment. Not only is such jurisdiction given to the judges, but when the person who is unlawfully deprived of his liberty, makes his application to one of them, as provided in the law, for the benefits of the writ, it is made the duty of such judge forthwith to issue it. The exempted cases of convicted persons who stand committed, and of treason or felony, punishable capitally, are the only restrictions upon the power of a single judge. The common law courts are clothed with power adequate for those and for all other cases which may arise. In the exercise of this power by a single judge, or a court, every case of unlawful imprisonment may be reached and examined into. 'No matter where or how the chains of captivity were forged, the power of the judiciary, in this state, is adequate to crumble them to the dust, if an individual is deprived of his liberty, contrary to the law of the land.' " *Ex parte Collier*, 6 Ohio St., 55-58, 59—Bowen, J.

If a court, having jurisdiction of an offense punishable by a valid and constitutional law, pronounces sentence, and the commitment under that sentence is returned on habeas corpus, the form of the indictment, or the want of proper allegations therein, cannot be inquired into, nor can the previous proceedings of the court be revised and reviewed; for this process cannot be converted into a writ of error. In such case the court, having jurisdiction over the offense, must itself pronounce the law of the case, and, until reversed by some competent tribunal, is conclusive on all other courts, and puts an end to all collateral inquiry on habeas corpus. Hence it is that the statute itself, relating to this writ, excepts from those who are entitled to the benefit of it, all persons convicted of a crime or offense for which they stand committed, plainly and specifically expressed in the warrant of commitment." *Ex parte Shaw*, 7 Ohio St., 81; *ex parte Bushnell*; *ex parte Langston*, 9 Ohio St., 77-183—Swan, C. J.

Where the court erroneously refuses to grant an order of discharge, and instead thereof remands the prisoner to jail, and continues the cause, the order remanding the prisoner to jail, so long as it remains unreversed, is a valid and legal authority to the sheriff for retaining the prisoner in custody, and the order cannot be reviewed and reversed, or the prisoner discharged, by a proceeding in habeas corpus before another tribunal. *Ex parte McGehan*, 22 Ohio St., 442.

2 Debates, 231, 328, 806, 826, 857, 870.

Bailable of-  
fenses.  
Of bail, fine  
and punish-  
ment.

SEC. 9. All persons shall be bailable by sufficient sureties, except for capital offenses where the proof is evident, or the presumption great. Excessive bail shall not be required; nor excessive fines imposed; nor cruel and unusual punishments inflicted. (*Sec Const. 1802, Art. VIII, §§ 12, 13.*)

"Who is to decide whether the proof be evident, or the presump-

tion great? Most undoubtedly the same authority which prescribes the amount of bail, and passes upon the sufficiency of the sureties; the judges of the court who exercise this same power in all analogous cases known to our laws. . . . The appeal must be addressed to the discretion of the court; a sound legal discretion it is true, but one that can only be moulded into action by the evidence brought to bear upon the indictment." *State v. Summons*, 19 Ohio, 139, 140—Spalding, J. 2 Debates, 231, 328, 806, 826, 857, 870.

SEC. 10. Except in cases of impeachment, and cases arising in the army and navy, or in the militia when in actual service in time of war or public danger, and in cases of petit larceny and other inferior offenses, (1) no person shall be held to answer for a capital, or otherwise infamous crime, unless on presentment or indictment of a grand jury. (2) In any trial, in any court, the party accused shall be allowed to appear and defend in person and with counsel; to demand the nature and cause of the accusation against him, (3) and to have a copy thereof; to meet the witnesses face to face, (4) and to have compulsory process to procure the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury (5) of the county or district, in which the offense is alleged to have been committed (6); nor shall any person be compelled, in any criminal case, to be a witness against himself, or be twice put in jeopardy for the same offense (7). (*See Const. 1802, Art. VIII, § 11.*)

Of the trial  
of accused  
persons and  
their rights.

(1.) "By this section of the Constitution, a presentment or indictment of a grand jury is dispensed with 'in cases of petit larceny and other inferior offenses.' How such offenses should thereafter be prosecuted, depended entirely upon legislative discretion. It is very evident that petit larceny is simply named as one of a class of offenses; and equally so, that the class was intended to embrace all offenses for which a punishment less than imprisonment in the penitentiary is provided. This was a classification so long used in our laws, and so well understood, as to leave no doubt that it was the one intended to be adopted by the Convention." *Dillingham v. State*, 5 Ohio St., 280, 282—Ranney, C. J.

"There are many offenses, made so by statute, though decidedly immoral and mischievous in their tendencies, that are not crimes, but at most only *quasi* criminal, and where the Legislature may direct the mode of redress, untrammelled by this constitutional provision. Such are Sabbath-breaking, selling spirituous liquors on Sunday, and the disturbance of religious meetings, with many others. Of such, jurisdiction may be given to justices of the peace, or the mayor of an incorporated town." *Murkle v. Town Council of Akron*, 14 Ohio, 586-589—Wood, C. J.

(2) Where, on an indictment for grand larceny presented against H. L., a person was arraigned, and pleaded in abatement that his name is not H. L., but W. H. L., and the plea was found to be true, and the name thus disclosed was entered on the minutes of the court, and the trial and further proceedings were had in pursuance of section 112

of the Code of Criminal Procedure: Held, that this section of the code is not in contravention of this section of the Constitution. *Lasure v. State*, 19 Ohio St., 43.

"An individual accused of a crime cannot be compelled to answer the charge until the same has been made through the intervention of a grand jury, in the form of an indictment or a presentment. Should the Legislature pass an act to compel an individual to answer, without this prerequisite, such an act would be in violation of the Constitution, and void. But this clause in the Constitution has nothing to do with the particular forms of indictments. These forms will vary according to the nature of the criminal acts prohibited. The Legislature have the power to declare what acts are criminal; and they have the same power to prescribe the forms of indictments for the commission of such criminal acts. They cannot dispense with the indictment itself; but they can dispense with some of its technical formalities." *Louge v. State*, 11 Ohio, 68-70—*Hitchcock, J.*; *Wolf v. State*, 19 Ohio St., 248-255; *Turpin v. State, Ib.*, 540-545.

(3) "The indictment, in the contemplation of the Constitution, is that written statement of the nature and cause of the accusation, with all the certainty and substantial requirements heretofore sanctioned and declared essential by the settled law of the country. Why these provisions in the fundamental law of the State? Why the ceremony and expense of a grand jury to find and return an indictment setting out the 'nature and cause of the accusation'? and why guarantee to the accused the right to demand and have a copy of the indictment, if the written averments, descriptive of the crime, are not required to be made with certainty and truth, charging the overt act, with all the substantial and distinguishing ingredients which the statute creating the offense has made essential to constitute the crime? If any one or more of the substantial ingredients or distinguishing constituents of the crime may be omitted, the written accusation required would become a mere snare by which to mislead and entrap the accused on his trial. Where either purpose, intent, or knowledge, is, by the statute, made a distinguishing characteristic of a crime, it is as essential that such purpose, intent, or knowledge should be averred in the description of the act charged as the crime as any other material and distinguishing ingredient." *Fouts v. State*, 8 Ohio St., 98-114, 115—*Bartley, C. J.*

The indictment or information must aver all the material facts which it is necessary to prove to produce a conviction, and with such reasonable certainty as to advise the accused what he may expect to meet on the trial. *Dillingham v. State*, 5 Ohio St., 280; *Louge v. State*, 11 Ohio, 68; *Lamberton v. State, Ib.*, 282; *Anderson v. State*, 7 Ohio, 2 pt., 250; *Davis v. State*, 7 Ohio, 1 pt., 205; *Hess v. State*, 5 Ohio, 1-12; *Gatewood v. State*, 4 Ohio, 387; *Fouts v. State*, 8 Ohio St., 98-114.

It is sufficient, in an indictment for manslaughter, to charge the crime in accordance with section 92 of the Code of Criminal Procedure. That section is not repugnant to the Constitution. *Wolf v. State*, 19 Ohio St., 248.

The provision in section 96 of the Code of Criminal Procedure, which declares that it shall be sufficient in any indictment, where it is necessary to allege an intent to defraud, to allege that the party accused did

the act with intent to defraud, without alleging an intent to defraud any particular person, is not in conflict with this provision. *Turpin v. State*, 19 Ohio St., 540.

(4) "This, like numerous other provisions in the Bill of Rights, is a constitutional guaranty of one of the great fundamental principles well established and long recognized at common law, both in England and in this country. The scope and operation of it are clearly defined and well understood, in the common law recognition of it; and the assertion of it in the fundamental law of the state, was designed neither to enlarge nor curtail it in its operation, but to give it permanency and secure it against the power of change or innovation. The object of this provision manifestly is to exclude testimony by depositions, by requiring it to be given orally, in the presence of the accused, on the trial. The admission of testimony by depositions against the accused in a criminal cause, would often afford the prosecutor great advantages over him, as well as furnish, at times, opportunities for abuses beyond the reach of detection by the defendant. Deprived of this right, the accused would often be without the opportunity of cross-examination, without the means of seeing, hearing or knowing the persons who testify against him, and without the advantage of an oral examination of the witnesses before the jury which is to decide upon his case. But important as this right is, as established at common law and secured by the Constitution, it has application to the matter of the personal presence of the witnesses on the trial, and not to the subject matter or competency of the testimony to be given. The requirement that the accused shall be confronted, on his trial, by the witnesses against him, has sole reference to the personal presence of the witness, and it in no wise affects the question of the competency of the testimony to which he may depose. When the accused has been allowed to confront, or meet face to face, all the witnesses called to testify against him on the trial, the constitutional requirement has been complied with." *Summons v. State*, 5 Ohio St., 325-340; Bartley, C. J.

Testimony proving the statements made by a deceased witness on oath, at a former trial between the same parties, being one of the established exceptions to the rule that hearsay is incompetent as evidence, the admission of a witness to give evidence of this kind in a criminal case, does not contravene this provision of the Constitution. (*Ib.*, 325.) So in regard to evidence of dying declarations, the objection to such evidence going to the competency of the evidence, and not to the competency of the witness. *Ib.*, 342; *Robbins v. State*, 8 Ohio St., 131; *Montgomery v. State*, 11 Ohio, 424; *Wagers v. Dickey*, 17 Ohio, 439.

(5) "The right of the accused to an impartial jury cannot be abridged. To secure this right, it is necessary that the body of triers should be composed of men indifferent between the parties, and otherwise capable of discharging their duty as jurors. Whether in the practical administration of justice the right is infringed, is, necessarily, a judicial question; and whether, in a particular case, a proposed juror has the state of mind which will render him impartial, is a question of fact which it is the duty of the court trying the case to decide. This duty is enjoined by the Constitution, and, it is true, cannot be impaired or the right abridged by legislative action. The previous demeanor of the juror,

the information he may have received, or the opinions he may have entertained or expressed, are only evidence of the state of his mind, and are material only as they may tend to show a free judgment of the case, the existence of prejudice against either of the parties, or his indifference between them." *Cooper v. State*, 16 Ohio St., 328-331—White, J.; see *Martin v. State*, 16 Ohio, 364.

The constitutional right of trial by jury is not infringed, when the option is given to the accused to have the issue tried by the court or the jury, and he submits the cause to the court. *Dillingham v. State*, 5 Ohio St., 280. And section 42 of the "act defining the jurisdiction and regulating the practice of probate courts," passed March 14, 1853 (51 O. L., 167; S. & C., 1212), providing that "upon a plea other than a plea of guilty, if the defendant do not demand a trial by jury, the probate judge shall proceed to try the issue," is a valid and constitutional enactment. *Dailey v. State*, 4 Ohio St., 57.

The issue made by the plea of not guilty cannot be tried by the court, without the waiver by the parties of a jury trial. *Slocum v. Lessee of Swan*, 4 Ohio St., 161.

But upon the trial of an issue raised by a plea of not guilty, in the higher grades of crime, it is not in the power of the accused to waive a trial by jury, and, by consent, submit to have the facts found by the court, so as to authorize a legal judgment and sentence upon such finding. *Williams v. State*, 12 Ohio St., 622.

Section 8 of the act of April 16, 1857 (Swan & Critchfield, 690), "to authorize the establishment of houses of refuge," and the statutes subsequently enacted enlarging the operation of that act so as to authorize commitments to "The State Reform Farm" (S. & C., 1380, 1381; S. & S., 388), are not repugnant either to this section or to section five of this article, although they make no provision for a trial by jury. *Prescott v. State*, 19 Ohio St., 184.

In a summary proceeding before the probate court, under the act of February 26, 1843 (S. & C., 618), on complaint of an administrator against a party suspected of embezzling, concealing or conveying away the property or effects of the estate, the court has no constitutional power to render judgment against the party so charged, except for such property and effects as he, on his examination, admits himself guilty of having embezzled, concealed or carried away; and to the extent that the statute professes to authorize a judgment in cases where there is a controversy between the parties, it is unconstitutional. *Howell v. Fry*, 19 Ohio St., 556.

An ordinance of an incorporated village provided that persons keeping billiard-tables, to be used by others, should be imprisoned for a term not exceeding thirty days. Held, that although such an ordinance may have been authorized by section 35 of the Municipal Corporation Act, as amended April 5, 1856 (S. & C., 1507), yet no corresponding change in the powers and jurisdiction of mayors of incorporated villages, so as to furnish the means of a trial by jury, having been made, a trial and sentence to imprisonment, by the mayor, of a person charged with a violation of the ordinance, are illegal. *Thomas v. Village of Ashland*, 12 Ohio St., 124. "It would be a grave question whether the Legislature could create a new offense, to be punished by

imprisonment, and provide that the trial for such offense should be before a single judge, without a jury." *Ib.*, 129—Gholson, J.

The act supplementary to an act directing the mode of trial in criminal cases, passed March 3, 1860 (S. & C., 1197), is not repugnant to this section. *Cooper v. State*, 16 Ohio St., 328.

See further as to trial by jury: Art. I, § 5, and notes; Art. I, § 19, Note 7; Art. XIII, § 5, Note 6.

(6) In the case of *State v. Arrison*, which was an indictment for murder, referred to in 8 Ohio St., 124, an order was made by Parker, J., of the Hamilton County Common Pleas, changing the venue to the County of Butler; but the presiding judge (Clark, J.), after full argument, held that this could not be done, in view of this constitutional provision.

(7) "This constitutional provision extends the common law maxim, which was limited to felonies, to all grades of offenses; and it is but the application to the administration of criminal justice of a more general maxim of jurisprudence, that no one shall be twice vexed for one and the same cause. On this maxim rests the whole doctrine of *res adjudicata*. The object of incorporating it into the fundamental law, was to render it, as respects criminal causes, inviolable by any department of the government." *State v. Behimer*, 20 Ohio St., 572-576—White, J.

"It is the right of the state, and one of the most solemn and responsible of its duties, to punish crime; and it is the absolute right of any one accused of crime to demand, 'a speedy public trial by an impartial jury,' and a verdict, declaring his guilt or innocence, according to the due course of law. The one is indispensably necessary to the safety of the community and the preservation of peace and order, and the other for the protection of the innocent, and to prevent the oppression, which might otherwise be practiced, by those having charge of state prosecutions. The problem has always been to preserve intact both of these important rights; and the object has been completely accomplished, by holding the accused liable to answer, until, in the regular course of judicial proceedings, the tribunal charged with the issue, without molestation or interference, has had the fullest and amplest opportunity to pass upon the question of his guilt; and by making every interference on the part of the government, by which a verdict is prevented, while a reasonable hope remains that one may be rendered, an absolute bar to his further prosecution. If a verdict cannot be obtained upon one trial, another may be lawfully had; and the unavoidable delay which ensues, is the fault of no one. For the better protection of the accused, the law requires unanimity in the jury before a verdict can be rendered; but to allow, on the one hand, the ignorance, perversity, or even honest mistake of a single juror to paralyze the administration of justice, and turn loose upon the community the most dangerous offenders, or, on the other, to allow the government to trifle with the constitutional safeguards of the accused, would equally subvert the foundation principles upon which the criminal code is administered." *Dobbins v. State*, 14 Ohio St., 493-501—Raney, J.

When the defendant, in a criminal prosecution, is discharged under

the 161st or 162nd section of the criminal code, on the ground that he has not been brought to trial within the time therein limited, the order of discharge is to be regarded, not as a mere temporary release of the prisoner from confinement, but as a final judgment in the cause, and a bar to all subsequent prosecutions for the same crime or offense. *Ex parte McGehan*, 22 Ohio St., 442.

A jury, charged with the trial of a capital case, after long deliberation unable to agree upon a verdict, may be discharged by the court, and the accused held to a further trial, without any infringement of this provision. The power to do so, against his consent, only exists in cases of absolute necessity, and when the jury have considered the cause for such a length of time, as to leave no reasonable expectation that they will be able to agree upon a verdict. *Dobbins v. State*, 14 Ohio St., 493; *Poage v. State*, 3 Ohio St., 229-239; *Hurley v. State*, 6 Ohio, 400.

But where a court, in a criminal case, after a jury have retired to consult on their verdict, discharges them without the assent of the prisoner, and without the existence of a cause for which they might lawfully be discharged, the prisoner cannot be again tried for the same offense. *Poage v. State*, 3 Ohio St., 229.

"Though the existence of the power was once doubted, it is now well settled that the court has the power, at the instance of the defendant, after a verdict of conviction, to grant a new trial, without infringing this provision. The power has been uniformly exercised in this state, when, in the judgment of the court, a proper case arose." *State v. Behimer*, 20 Ohio St., 572-576—White, J.

Article five of the amendments of the Constitution of the United States does not operate as a limitation of the power of the state governments over their own citizens, but is exclusively a restriction upon federal power. *Prescott v. State*, 19 Ohio St., 184.

2 Debates, 231, 328, 329, 330, 463, 476, 806, 826, 857, 870.

Of the  
freedom of  
speech and  
of the press.  
  
Of libels.

SEC. 11. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of the right; (1) and no law shall be passed to restrain or abridge the liberty of speech, or of the press. In all criminal prosecutions for libel, the truth may be given in evidence to the jury, and if it shall appear to the jury, that the matter charged as libelous is true, and was published with good motives, and for justifiable ends, the party shall be acquitted. (*See Const. 1802, Art. VIII, § 6.*)

(1) "The liberty of the press, properly understood, is not inconsistent with the protection due to private character. It has been well defined as consisting in 'the right to publish, with impunity, the truth, with good motives, and for justifiable ends, whether it respects government, magistracy, or individuals.'" *Cincinnati Gazette Co. v. Timberlake*, 10 Ohio St., 548-555—Scott, J.

Whilst a full, impartial and correct account of a trial in a court of justice, unaccompanied by defamatory comments, may, in general, be published with impunity, yet this privilege does not extend to the pub-



lication of preliminary proceedings merely, which are of a purely *ex parte* character, such as a statement, in detail, of the contents or substance of an affidavit, made before a police magistrate, with a view to the arrest of a party thereby charged with crime. Such publication can be justified only by showing the truth of the charge. *Ib.*, 548; and see the same case on trial below reported in 1 Disney's Rep., 320.

"No man can be held responsible in a civil proceeding for publishing the truth; but he is responsible for publishing a falsehood, unless he shows a justification in the occasion or circumstances. To publish that which is false and injurious to another, must be deemed an abuse. So, if the first publication of false and injurious matter be an abuse of the right of speech, or of the liberty of the press, and a wrongful act, it can confer no right on another to repeat or republish. This is also an abuse, for which the party repeating or republishing becomes responsible. And it is now well settled that this responsibility cannot be escaped by giving the name of the author or first publisher. And no such doctrine has at any time obtained countenance in reference to a libel or written slander. To repeat what a man hears in conversation, is quite a different matter from writing it out and publishing it in a newspaper. Where such libel consists in publishing the fact of an accusation having been made against another, the defendant must show the accusation to be true." *Ib.*, 1 Disney's Rep., 320-322—Gholson, J.

2 Debates, 231, 330, 468, 559, 806, 826, 857, 870.

SEC. 12. No person shall be transported out of the state,(1) for any offense committed within the same; and no conviction shall work corruption of blood, or forfeiture of estate. (*See Const.* 1802, *Art. VIII*, §§ 16, 17.)

Transportation, etc., for crime.

(1) "This prohibition must have been intended to limit the Legislature in the punishment of crimes, referring the forbidden transportation or banishment to that which is involuntary on the part of the criminal, and made a part of the judgment of the tribunal pronouncing sentence. But a condition attached to a pardon granted by the Governor of Ohio to a person convicted and committed to the state penitentiary for the period of five years, that he would immediately leave the state, and not return during that period, is valid; and if, in violation of it, he is found within the state afterward, he is liable to arrest as an escaped convict." *Ex parte Lockhart*, 1 Disney's Rep., 105-107—Storer, J. (*See Art. III*, § 11. *note.*)

2 Debates, 231, 330, 464, 467, 468, 806, 826, 857, 870.

SEC. 13. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor, in time of war, except in the manner prescribed by law. (*See Const.* 1802, *Art. VIII*, § 22.)

Of quartering troops.

2 Debates, 231, 330, 806, 826, 857, 870.

SEC. 14. The right of the people to be secure in their persons, houses, papers and possessions, against unreasonable searches and seizures shall not be violated; and no warrant shall issue, but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched,

Search warrants and general warrants.

and the person and things to be seized. (*See Const.* 1802, *Art. VIII*, § 5.)

2 Debates, 231, 330, 464, 806, 826, 857, 870.

No imprisonment for debt.

SEC. 15. No person shall be imprisoned for debt (1) in any civil action, on mesne or final process, unless in cases of fraud. (2) (*See Const.* 1802, *Art. VIII*, § 15.)

(1) The provision in the Bastardy Act (S. & C., 178, Sec. 6), directing the putative father to be committed to jail in default of giving security to perform the order of the court charging him with the maintenance of his illegitimate child, is not in conflict with this section. The sum in which the defendant is charged with the maintenance of the child, is not a debt within the meaning of this provision of the Constitution. *Musser v. Stewart*, 21 Ohio St., 353; *Perkins v. Mobley*, 4 Ohio St., 668; *Hawes v. Cooksey*, 13 Ohio, 242-245.

(2) "This constitutional provision clearly contemplates legislation before any arrest could be made in civil actions, though fraud may have intervened. Courts, therefore, whether of general or limited jurisdiction, have now no common law power to authorize arrests in such cases, and the power, if it exists at all, must have been conferred by express legislation." *Spice v. Steinruck*, 14 Ohio St., 213-218—Peck, C. J.

An arrest cannot be made, in a civil action, on the ground that the defendant is not a resident of the State of Ohio. *Messenger v. Lockwood*, 9 West. Law Jour., 521.

2 Debates, 231, 330, 331, 464, 466, 806, 826, 857, 870.

Of redress in courts.

SEC. 16. All courts shall be open, and every person, for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law; and justice administered without denial or delay. (*See Const.* 1802, *Art. VIII*, § 7.)

2 Debates, 337, 464, 806, 826, 857, 870.

Hereditary privileges, etc.

SEC. 17. No hereditary emoluments, honors, or privileges, shall ever be granted or conferred by this state. (*See Const.* 1802, *Art. VIII*, § 24.)

2 Debates, 231, 335-337, 466, 467, 806, 826, 857, 870.

Suspension of laws.

SEC. 18. No power of suspending laws shall ever be exercised, except by the general assembly. (*See Const.* 1802, *Art. VIII*, § 9.)

2 Debates, 231, 337, 464, 468, 469, 806, 826, 857, 870.

Of the inviolability of private property.

SEC. 19. Private property shall ever be held inviolate, (1) but subservient to the public welfare. (2) When taken in time of war or other public exigency, imperatively requiring its immediate seizure or for the purpose of making or repairing roads, which shall be open to the public, (3) without charge, a compensation shall be made to the owner, in money, and in all other cases, where private property shall be taken for public use, (4) a compensation therefor shall first be made in money, (5) or first secured by a deposit of money; (6) and such compensation shall be assessed by a jury, (7) without deduction for benefits to any property of the owner. (8) (*See Const.* 1802, *Art. VIII*, § 4.)

(1) The statute for the relief of occupying claimants, passed March 10, 1831 (3 Curwen, 2403; S. & C., 881), requiring the value of the per-

manent improvements of the *bona fide* occupant, under color of title, to be paid as a condition precedent to the entry and possession of the owner, although an encroachment on the rights of private property as settled by the common law, rests upon a strong equity in favor of a compensation for improvements, which have augmented the value of the land, and inured to the benefit of the owner. *McCoy v. Grandy*, 3 Ohio St., 463.

The option which this law gives to the owner of land, after a recovery in ejectment, either to take the land on paying for the improvements, or to take the amount of its value in money without the improvements, secures to the owner the property in the land, and at the same time protects the occupying claimant in his equitable claim to a compensation for his improvements. *Ib.*

But the amendatory act of March 22, 1849 (2 Curwen, 1497; S. & C., 886), giving to the occupying claimant the option which the original act gave to the owner of the land, thus taking the property away from the owner after the solemn form of a recovery and judgment in ejectment, and transferring it to his unsuccessful adversary, who is ordered to be ejected as an intruder on the land, is a palpable invasion of the right of private property. *Ib.*

In case of a mortgage, a judgment lien, a levy under execution, assessment of a tax, or other incumbrance on land arising out of the owner's liabilities, it is not within the scope of the legislative power to take the fee in the land from the owner and transfer it absolutely to the person holding the claim, while the owner stands ready and insists on discharging the liability and saving his property. *Ib.*

The competency of the legislative power to transfer the property of one person to another, without the consent of the former, is not shown by any analogy either to proceedings in partition or the bar of the statute of limitations. In the case of the former, although the right of partition is an incident to the estate of tenancy in common, and the division the result of necessity, yet the owner is not divested of his property without the opportunity of saving it by a purchase; and in the case of the latter, the bar of the statute rests upon a rule of evidence raising a presumption that a title has passed, and upon this ground the aid of the judicial power is denied to one who has slept too long on his rights. *Ib.*

The occupying claimant law rests upon entirely different ground; and in securing to the occupant a compensation for his improvements, as a condition precedent to the restitution of the property to the owner, it goes to the utmost stretch of the legislative power touching the subject. And the amendatory act of 1849, providing for the transfer of the land to the occupying claimant without the consent of the owner, is in plain conflict with this provision, and is, therefore, unconstitutional and void. *Ib.*

"The plaintiff's affidavit in replevin of his property and right of possession, and the defendant's possession and claim of right to the same property, make a case of disputed ownership to the chattel replevied. Our statute directs its seizure and delivery over to the plaintiff, if he will give bond with surety to pay to the defendant all damages; and if he do so, then the disputed right of the defendant to the chattel

becomes a mere right in action to recover its value from the plaintiff and his sureties; but if the plaintiff fails to give bond, then the property is returned to the defendant, and the plaintiff's right to the chattel is changed into a mere right to recover its value, in that action, from the defendant. And to this there is no constitutional objection." *Smith v. McGregor*, 10 Ohio St., 461-474—Peck, J.

(2) This clause clearly prohibits the taking of private property for private use, without the owner's consent. *Reeves v. Treas. of Wood Co.*, 8 Ohio St., 333-345. Nor could it be so taken, were there no constitutional provision on the subject. *Sharer v. Starrett*, 4 Ohio St., 494-498—Thurman, C. J.

The power of eminent domain is not conferred either by this section or by the fifth section of Article XIII; they simply prescribe modes for, and limitations upon, its exercise. The power is an inseparable incident of sovereignty, and its exercise for the accomplishment of lawful objects is conferred upon the General Assembly in the general grant of legislative authority (Art. II, § 1). *Giesy v. C. W. & Z. R. R. Co.*, 4 Ohio St., 308.

It may be used to appropriate lands for a public highway of any kind, and this whether the road is built and owned by the public or by a corporation as a public instrumentality, provided it is kept open for public use as a matter of right, or, according to the nature of the work, the corporation is made a common carrier of goods or of passengers. *Ib.*

It may be exercised directly or indirectly by the General Assembly, without the intervention of the judiciary, except for determining the amount of compensation. But the courts possess full power to determine its proper limits, and to prevent abuses in its exercise. *Ib.*

The power rests upon public necessity, and can only be exercised where such necessity exists. But this necessity relates rather to the nature of the property, and the uses to which it is applied, than to the exigencies of the particular case; and it is no objection to the exercise of the power, that lands, equally feasible, could be obtained by purchase. *Ib.*

Only such interest as will answer the public wants can be taken; and it can be held only so long as it is used by the public, and cannot be diverted to any other purpose. *Ib.*

Under the statute authorizing the appropriation of private property for a public wharf, by a municipal corporation, the discretion of determining the quantity of ground required for such purpose is vested in the corporation; and where, in making the appropriation, this discretion has been exercised by the municipal authorities in good faith, their action is final. *Iron R. R. Co. v. Ironton*, 19 Ohio St., 299.

Authority to lay down the necessary structure for a street railway, in a common highway or street, and to run cars thereon for the carriage of passengers for hire, may be lawfully granted to a company incorporated for that purpose, when no private right of the adjoining lot-owners is thereby impaired. *Street Railway Co. v. Cumminsville*, 14 Ohio St., 524.

The Legislature may authorize the occupation of an easement originally acquired by grant or appropriation, in any manner calculated to

further the general objects of the acquisition; but may not divert it to purposes which exclude the original uses, or lay additional burdens upon the land, or destroy or impair the incidental easements of adjoining lot-owners in the street or highway. This interest of adjoining lot-owners is properly protected by the Constitution, and subject to be taken or appropriated only upon the condition that compensation is made. *Ib.*; *Hatch v. C. & I. R. R. Co.*, 18 Ohio St., 92; *Sargent v. O. & M. R. R. Co.*, 1 Handy's Rep., 52.

A claimant for damages in the alteration of a road, is not entitled to recover where such alteration merely renders the road less convenient for travel, without directly impairing his access to the road from the improvements on his land. *Jackson v. Jackson*, 16 Ohio St., 163.

It is well settled that an action lies as well for damage to adjoining property by stopping or impairing the travel on, to, or from a street or highway, as any other damage that can be done to property, although the property injured may not be touched by the obstruction. *L. M. R. R. Co. v. Naylor*, 2 Ohio St., 235.

The owners of unimproved lots cannot recover damages from a municipal corporation for filling, ditching or cutting down streets, being presumed to purchase with a view to a reasonable improvement of the streets. *Crawford v. Village of Delaware*, 7 Ohio St., 459.

The owners of lots upon a street, the grade of which has not been established, must use reasonable care and judgment in making improvements with a view to a reasonable and proper grade; and the town or city will not be responsible for injuries to such improvements by afterward grading the street, if the grade by ordinary care could have been anticipated. *Ib.*; *Cincinnati v. Penny*, 21 Ohio St., 499.

But if erections are made on a lot in accordance with an established grade, and the grade is afterward altered, and a substantial injury is thereby done to the owner of a lot, he is entitled to compensation. *Crawford v. Village of Delaware*, 7 Ohio St., 459; *Street Railway v. Cummins*, 14 Ohio St., 523; *Cincinnati v. Penny*, 21 Ohio St., 499.

(3) A township road in this state is a public highway, and subject to the uses of all having occasion to travel it, and may be highly necessary to enable the person or persons most immediately and directly interested in it, to discharge properly, and without trespassing on their neighbors' premises, many of the public duties enjoined upon them as citizens of the state. In the establishment of such roads, therefore, by the exercise of the right of eminent domain, private property may be made subservient to the public welfare, on payment therefor in money. *Ferris v. Bramble*, 5 Ohio St., 109; *Shaver v. Starrett*, 4 Ohio St., 494.

The interest of the public in public roads, consisting of a perpetual easement in the land covered by them, for all the actual uses and purposes of public travel, may, at the discretion of the General Assembly, be transferred, without any pecuniary equivalent, to a plankroad company, such plankroad still remaining a public highway, and subject to the same uses and purposes as before. In such case the company becomes the assignee of the public, and lawfully possessed of the same interest the public had. Such change of the mode of supporting an existing highway cannot be presumed to affect injuriously the rights of the propri-

etors of land over which it passes, and if such injury is claimed to have resulted, it must be proved. *C. F. & C. P. R. Co. v. Cane*, 2 Ohio St., 420.

(4) The act of May 1, 1862, entitled "An act to provide for locating, establishing and constructing ditches, drains and water-courses in townships" (59 O. L., 93), is not repugnant to the Constitution of the state in so far as its provisions relate to the taking of private property for township ditches, whenever the public health, convenience or welfare demands it; nor in so far as its provisions relate to the mode of compensating the owner for property taken for the public use; nor in so far as its provisions relate to the assessment of the costs of constructing the ditch upon lands benefited thereby. *Sessions v. Crunkilton*, 20 Ohio St., 349. But the act of May 1, 1854, "authorizing the trustees of townships to establish water-courses," etc. (Swan's R. S., 333), and the amendatory act of April 14, 1857 (Swan's R. S., 333), are in contravention of this section, inasmuch as they authorize an appropriation of private property without reference to the public welfare. *Reeves v. Treas. of Wood Co.*, 8 Ohio St., 333.

The opening of a street, by the ordinance of a municipal corporation, is a dedication of the property condemned to a specific use, i. e., a street or highway; and the owners of such property have an immediate right of action therefor against the city. By the fact of thus ordering the street to be opened, the council declare the necessity for its existence, and cannot afterwards recklessly rescind their action, nor appropriate the property condemned to other uses, especially when other parties, in consequence of obeying such order, have surrendered or acquired valuable rights, and must be greatly damaged by the change. *Strader v. Cincinnati*, 1 Handy's Rep., 446.

The use for which private property may be taken must be strictly public. A canal is such a public work that private property may be taken in constructing it. *Cooper v. Williams*, 4 Ohio, 253-288; *Willyard v. Hamilton*, 7 Ohio, 2 pt., 111. And also in repairing it. *Bates v. Cooper*, 5 Ohio, 115-119. A toll-bridge, authorized by law, is also such a work. *Young v. Buckingham*, 5 Ohio, 485. So are public streets. *Hickox v. Cleveland*, 8 Ohio, 543; *Symonds v. Cincinnati*, 14 Ohio, 147; *Brown v. Cincinnati*, *Ib.*, 541. So are turnpikes. *Kemper v. C. C. & W. T. Co.*, 11 Ohio, 393. And railroads. *Moorehead v. L. M. R. R. Co.*, 17 Ohio, 340. And township roads. *Ferris v. Bramble*, 5 Ohio St., 109; *Shaver v. Starrett*, 4 Ohio St., 494. And township ditches, drains and water-courses, when the public health, convenience or welfare demands them. *Sessions v. Crunkilton*, 20 Ohio St., 349; and see *Reeves v. Treas. of Wood Co.*, 8 Ohio St., 333.

(5) An assessment of damages in the "sum of one hundred and fifty dollars, with a wagon way and stop for cattle," as the damages sustained by the owner of land taken for the construction of a railroad, is not in conformity with this provision. *C. O. R. R. Co. v. Holler*, 7 Ohio St., 220.

No valid appropriation of property for public use can be made without a law providing compensation to the owner, to be assessed in the mode prescribed in the Constitution. The Constitution, in this particular, does not execute itself. *McArthur v. Kelly*, 5 Ohio, 140; *Foote v. Cincinnati*, 11 Ohio, 408; *Lamb v. Lane*, 4 Ohio St., 167; *Shaver v.*

*Starrett, Ib.*, 494; *Watson's Ex'r v. Trustees of Pleasant Tp.*, 21 Ohio St., 667; *Cincinnati v. Com. of Hamilton Co.*, 1 Disney's Rep., 4.

(6) In case of the assessment of damages for laying out a road over the lands of any person, the damages or compensation for the land necessary to be taken must be paid or tendered in money, or secured to be paid to the acceptance of the owner, before the opening of the road can be ordered. *Ferris v. Bramble*, 5 Ohio St., 109.

Under the act to provide for locating, establishing and constructing ditches, drains and water-courses (S. & C., 523; S. & S., 313), personal notice to the owner of lands sought to be taken for the construction of a ditch is not indispensable in order to its condemnation and appropriation, the notice by publication provided for therein being sufficient for that purpose. *Cupp v. Com. of Seneca Co.*, 19 Ohio St., 173.

A land-owner failing to make application for compensation or damages within the time limited by the act, will be deemed and held to have waived his right to the same, although he had no actual notice of the proceeding; and the provision in said act to that effect is not in conflict with this section of the Constitution. *Ib.*

The proviso in section six of the act of January 27, 1853, "for opening and regulating roads and highways" (S. & C., 1291), declares a rule of evidence whereby a waiver, on the part of the land-owner, of his right to compensation, may be established, and does not conflict with this section of the Constitution. The rule contained in this proviso cannot be regarded either as a statute of limitation, whereby a right secured by the Constitution is barred immediately upon the accruing thereof, or as a statute declaring the forfeiture of private property. *Reckner v. Warner*, 22 Ohio St., 275.

But where real estate of a non-resident has been taken by the county commissioners for public use, as a county road, and it appears that the owner has not been notified, either in law or in fact, of the proceedings for its condemnation, the action of the county commissioners, as to him, is void, and he may maintain his action against them for the recovery of the compensation to which he may be entitled. *Badgely v. Com. of Hamilton Co.*, 1 Disney's Rep., 316.

(7) This provision applies to all the cases mentioned in the section. *Lamb v. Lane*, 4 Ohio St., 167.

The word jury in this section, as well as in the other places in the Constitution where it occurs, means a tribunal of twelve men, presided over by a court, and hearing the allegations, evidence and arguments of the parties. And they may be sent to inspect the premises. *Ib.*; *Work v. State*, 2 Ohio St., 307; *Shaver v. Starrett*, 4 Ohio St., 494.

An assessment may be made by viewers in the first instance, provided a right of appeal is given to a court in which they may be assessed by a constitutional jury. *Lamb v. Lane*, 4 Ohio St., 167; *In Re, Wells County Road*, 7 Ohio St., 16; *Reckner v. Warner*, 22 Ohio St., 275.

Under the Constitution of 1802, three disinterested freeholders the county where the property is situated, appointed by a judge of a court of record, was a competent tribunal to make the assessment. *Willyard v. Hamilton*, 7 Ohio, 2 pt., 111; *Work v. State*, 2 Ohio St., 296-307; *Kramer v. C. & P. R. R. Co.*, 5 Ohio St., 140.

The owner of lands is entitled to a jury to assess damages sustained

by the establishment of a county road. As to whether the Constitution operated upon cases pending before legislation, *quere*. In *Re, Wells County Road*, 7 Ohio St., 16.

So much of the act passed March 5, 1839, entitled "An act to amend the act to provide for the vacation of town plats, and for other purposes," passed January 29, 1828 (1 Curwen, 249; S. & C., 1487), and of the act of February 19, 1840, entitled "An act to amend the act to provide for the vacating of town plats, and for other purposes" (1 Curwen, 30; S. & C., 1488), as authorize the assessment of damages, by way of compensation, without the intervention of a jury, is inconsistent with this Constitution and void. *Cincinnati v. Com. of Hamilton Co.*, 1 Disney's Rep., 4.

The act of January 27, 1853, entitled "An act for opening and regulating roads and highways" (S. & C., 1289), as amended April 8, 1856 (S. & C., 1301), is not repugnant to the provisions of the Constitution relating to trial by jury, as contained in sections five and nineteen of the first article. The right of appeal therein provided for, to the probate court, where a constitutional jury may be had, validates the statute; and the provision therein for an appeal bond, with sureties, conditioned for the payment of costs adjudged against the appellant, does not contravene the right of trial by jury, as guaranteed by the Constitution. *Reckner v. Warner*, 22 Ohio St., 275.

See further as to juries and the right thereto, Art. I, § 5, and Notes; Art. I, § 10, Note 5; Art. XIII, § 5, Note 6.

(8) In proceedings for the appropriation of private property to public uses, arising under the Constitution of 1802, the construction put upon that instrument by the Supreme Court, that it allowed the benefits conferred to be deducted from the value of the property appropriated, and that it did not require the assessment to be made in a court, or by a jury, will be adhered to by the present Supreme Court. *Kramer v. C. & P. R. R. Co.*, 5 Ohio St., 140.

An assessment upon lands fronting on a street, to reimburse the amount of compensation paid the owner for his other land taken for the use of the street, is authorized by the statute (S. & S., 834), and is not in violation of this constitutional provision. *Cleveland v. Wick*, 18 Ohio St., 303.

The provisions of this section and of section five of Article XIII—the one requiring compensation to be made without deduction for benefits, when property is appropriated to a public use, and the other providing for compensation irrespective of benefits, where it is taken by a corporation for a right of way—are, in legal effect, identical. When taken under either section, its fair market value in cash, at the time it is taken, must be paid to the owner; and the jury, in assessing the amount, have no right to consider or make any use of the fact that it has been increased in value by the proposal or construction of the improvement. *Giesy v. C. W. & Z. R. R. Co.*, 4 Ohio St., 309. (*See Art. XIII, § 5.*)

1 Debates, 164, 290-293; 2 Debates, 176-182, 220-240, 318, 634, 652, 653, 663, 664, 806, 826, 827, 857, 870.

SEC. 20. This enumeration of rights shall not be con-



strued to impair or deny others retained by the people ; and all powers, not herein delegated, remain with the people. (See *Const.* 1802, *Art. VIII*, § 28.)

2 Debates, 231, 337, 464, 806, 827, 857, 870.

Powers reserved to the people.

## ARTICLE II.

### LEGISLATIVE.

"All of this article is devoted to the subject of legislative powers and duties. But it has respect to future legislative bodies, and future legislation under this Constitution, rather than to past, under the former Constitution." *Allbyer v. State*, 10 Ohio St., 588-590—Sutliff, J.

SECTION 1. The legislative power of this state (1) shall be vested in a general assembly, (2) which shall consist of a senate, and house of representatives. (See *Const.* 1802, *Art. I*, § 1.)

In whom legislative power is vested.

(1) "The same provision, in very nearly the same words, is found in the former Constitution. It will be observed that the provision is not that the legislative power, as conferred in the Constitution, shall be vested in the General Assembly, but that the legislative power of this state shall be vested. That includes all legislative power which the object and purposes of the state government may require, and we must look to other provisions of the Constitution to see how far, and to what extent, the legislative discretion is qualified or restricted. Hence the difference between the Constitution of the United States and a state Constitution, such as ours. In the former, we look to see if a power is expressly given ; in the latter, to see if it is denied or limited. Therefore, when the power of the Assembly to enact any particular law is drawn into question, the proper inquiry is, whether such an exercise of the legislative power is clearly prohibited by the Constitution. The grant of power being general, the question is as to the existence of a limitation arising from special prohibition." *Baker v. Cincinnati*, 11 Ohio St., 534-542—Gholson, J. ; *Lehman v. McBride*, 15 Ohio St., 573-592 ; *Cincinnati v. McCann*, 21 Ohio St., 198-207. Such prohibition must either be found in express terms, or be clearly inferable, by necessary implication, from the language of the instrument, when fairly construed according to its manifest spirit and meaning. *Cass v. Dillon*, 2 Ohio St., 607 ; *Evans v. Dudley*, 1 Ohio St., 437 ; *Lehman v. McBride*, 15 Ohio St., 573-592. But the General Assembly, like other departments of government, exercise only delegated authority ; and any act passed by it not falling fairly within the scope of "legislative authority," is as clearly void as though expressly prohibited. *C. W. & R. R. Co. v. Com. of Clinton Co.*, 1 Ohio St., 77.

The power to authorize assessments, as distinguished from taxes proper, is comprehended in the general grant of legislative power to the General Assembly. *Reeves v. Treas. of Wood Co.*, 8 Ohio St., 333.

The power to authorize assessments for the construction of free turnpike roads, and the opening of drains, as well as for the improve-

ment of streets and sidewalks, exists to the same extent under the present Constitution as under that of 1802. *Ib.*

"The enactment of laws for the inspection of commodities is the exercise of a legislative power recognized and sanctioned by long and unquestioned usage here and elsewhere, and is included in the general grant of legislative power conferred by the Constitution upon the General Assembly; and among the general, if not the invariable, incidents and characteristic features of this class of laws, is the imposition of a charge upon the owners or possessors of the commodities inspected, for the services of the inspector, although these services may have been rendered in *inritum* as to such owner or possessor. It is the legitimate exercise of governmental supervision over the business of the manufacturers and vendors of certain commodities, in order to protect the public, at home and abroad, against imposition and fraud, and, incidentally, to protect manufacturers and vendors themselves against unfounded and unjust claims of vendees and consumers, as well as against the consequences of their own short-sighted cupidity." *Cincinnati Gas L. & C. Co. v. State*, 18 Ohio St., 237-244—Brinkerhoff, J.

The acts of March 28, 1864 (61 O. L., 74), April 6, 1866 (63 O. L., 155), April 16, 1867 (64 O. L., 231), authorizing county commissioners, township trustees and city councils to levy a tax for the payment of bounties to volunteers, are authorized by the general grant of legislative power. *Cass Tp. v. Dillon*, 16 Ohio St., 38; *State v. Harris*, 17 Ohio St., 608; *State v. Wilkesville Tp.*, 20 Ohio St., 288; *State v. Richland Tp.*, *Ib.*; *State v. Circleville*, *Ib.*, 362.

(2) The power of the General Assembly to pass laws cannot be delegated by them to any other body, or to the people. *C. W. & Z. R. R. Co. v. Com. of Clinton Co.*, 1 Ohio St., 77. But an act authorizing county commissioners to subscribe to the capital stock of a railroad company (enacted under the Constitution of 1802), does not delegate legislative power in providing that the subscription shall not be made until the assent of a majority of the electors of the county is first obtained at an election held for that purpose. *Ib.*

1 Debates, 163-166, 168-171; 2 Debates, 141, 318, 560, 632, 664, 807, 831, 857, 870.

When  
chosen.

SEC. 2. Senators and representatives shall be elected biennially, by the electors in the respective counties or districts, on the second Tuesday of October; their term of office shall commence on the first day of January next thereafter, and continue two years. (*See Const. 1802, Art. I, §§ 3, 5.*)

1 Debates, 171-179, 181-226; 2 Debates, 141-149, 318, 560, 632, 664, 807, 831, 857, 870.

Residence.

SEC. 3. Senators and representatives shall have resided in their respective counties, or districts, one year next preceding their election, unless they shall have been absent on the public business of the United States, or of this state. (*See Const. 1802, Art. I, §§ 4, 7.*)

1 Debates, 163, 217, 218, 226-228; 2 Debates, 142, 149, 215, 318, 560, 632, 664, 807, 831, 857, 870.

Eligibility.

SEC. 4. No person holding office under the authority of the United States, or any lucrative office under the authority

of this state, shall be eligible to, or have a seat in, the general assembly; but this provision shall not extend to township officers, justices of the peace, notaries public, or officers of the militia. (*See Const. 1802, Art. I, § 26.*)

1 Debates, 163, 257, 258; 2 Debates, 164, 182-185, 318, 567, 633, 664, 807, 831, 857, 870.

SEC. 5. No person hereafter convicted of an embezzlement of the public funds, shall hold any office in this state; nor shall any person, holding public money for disbursement, or otherwise, have a seat in the general assembly, until he shall have accounted for, and paid such money into the treasury. (*See Const. 1802, Art. I, § 28.*)

Who shall not hold office.

1 Debates, 163, 164, 258; 2 Debates, 164, 318, 567, 568, 577, 578, 633, 664, 807, 831, 857, 870.

SEC. 6. Each house shall be judge of the election, returns, and qualifications of its own members; a majority of all the members elected to each house shall be a quorum to do business; but a less number may adjourn from day to day, and compel the attendance of absent members, in such manner, and under such penalties, as shall be prescribed by law. (*See Const. 1802, Art. I, § 8.*)

Powers of each house.

1 Debates, 163, 228, 229; 2 Debates, 149, 150, 219, 220, 318, 560, 632, 664, 807, 831, 832, 857, 870.

SEC. 7. The mode of organizing the house of representatives, at the commencement of each regular session, shall be prescribed by law. (*See Const. 1802, Art. I, § 8.*)

Organization of house of representatives.

2 Debates, 214, 215, 634, 664, 807, 832, 857, 870.

SEC. 8. Each house, except as otherwise provided in this constitution, shall choose its own officers, may determine its own rules of proceeding, punish its members for disorderly conduct; and, with the concurrence of two-thirds, expel a member, but not the second time for the same cause; and shall have all other powers, necessary to provide for its safety, and the undisturbed transaction of its business. (*See Const. 1802, Art. I, § 11.*)

Rules and right of punishment and expulsion.

1 Debates, 163, 229; 2 Debates, 220, 240, 318, 560, 632, 664, 807, 832, 857, 870.

SEC. 9. Each house shall keep a correct journal of its proceedings, which shall be published. At the desire of any two members, the yeas and nays shall be entered upon the journal; and, on the passage of every bill, in either house, the vote shall be taken by yeas and nays, and entered upon the journal; and no law shall be passed, in either house, without the concurrence of a majority of all the members elected thereto. (*See Const. 1802, Art. I, § 9.*)

Journal and yeas and nays.

No bill can become a law without receiving the number of votes required by the Constitution; and if it were found by an inspection of the legislative journals, that what purports to be a law upon the statute book, was not passed by the requisite number of votes, it might possibly be the duty of the courts to treat it as a nullity. But it does not follow that an act that was passed by a constitutional majority is invalid, because, in its consideration, the Assembly did not strictly observe the mode of procedure prescribed by the Constitution. There

are provisions in that instrument that are directory in their character, the observance of which by the Assembly is secured by their sense of duty and official oaths, and not by any supervisory power of the courts. *Fordyce v. Godman*, 20 Ohio St., 1-17; *Miller v. State*, 3 Ohio St., 475.

"The legislative journals furnish the appropriate evidence on the question whether a bill has been passed by the requisite number of votes. Were it otherwise, a bill might become a law without receiving the number of votes required by the Constitution. A single presiding officer might by his signature give the force of law to a bill which the journal of the body over which he presides, and which is kept under the supervision of the whole body, shows not to have been voted for by the constitutional number of members. The plain provisions of the Constitution are not to be thus nullified, and the evidence which it requires to be kept under the supervision of the collective body, must control when a question arises as to the due passage of a bill." *Fordyce v. Godman*, 20 Ohio St., 1-17—Scott, J.; and see *State v. Moffatt*, 5 Ohio, 358; 3 Ohio St., 475.

In the absence of all showing to the contrary, a law will be presumed to have been passed by the requisite number of votes. *Miller v. State*, 3 Ohio St., 475; *Seamboat Northern Indiana v. Millikin*, 7 Ohio St., 383.

1 Debates, 163, 229, 230; 2 Debates, 150, 318, 560, 577, 632, 664, 807, 825, 832, 858, 870.

Right of members to protest.

SEC. 10. Any member of either house shall have the right to protest against any act, or resolution thereof; and such protest, and the reasons therefor, shall, without alteration, commitment, or delay, be entered upon the journal. (*See Const. 1802, Art. I, § 10.*)

1 Debates, 163, 230, 232; 2 Debates, 150, 214, 318, 560, 633, 664, 807, 832, 858, 870.

Vacancies in either house, how filled.

SEC. 11. All vacancies which may happen in either house shall, for the unexpired term, be filled by election, as shall be directed by law. (*See Const. 1802, Art. I, § 12.*)

1 Debates, 163, 232; 2 Debates, 150, 318, 560, 633, 664, 807, 832, 858, 870.

Privilege of members from arrest, and of speech.

SEC. 12. Senators and representatives, during the session of the general assembly, and in going to, and returning from the same, shall be privileged from arrest, in all cases, except treason, felony, or breach of the peace; and for any speech, or debate, in either house, they shall not be questioned elsewhere. (*See Const. 1802, Art. I, § 13.*)

1 Debates, 163, 232; 2 Debates, 318, 560, 633, 664, 807, 832, 858, 870.

When session to be public.

SEC. 13. The proceedings of both houses shall be public, except in cases which, in the opinion of two-thirds of those present, require secrecy. (*See Const. 1802, Art. I, § 15.*)

1 Debates, 163, 232, 233; 2 Debates, 150, 318, 560, 633, 664, 807, 832, 858, 870.

Power of adjournment.

SEC. 14. Neither house shall, without the consent of the other, adjourn for more than two days, Sundays excluded; nor to any other place than that, in which the two houses shall be in session. (*See Const. 1802, Art. I, § 15.*)

1 Debates, 163, 233; 2 Debates, 150, 318, 560, 633, 664, 807, 832, 858, 870.

SEC. 15. Bills may originate in either house; but may be altered, amended, or rejected in the other. (*See Const. 1802, Art. I, § 16.*)

Where bills shall originate.

1 Debates, 163, 233; 2 Debates, 150, 318, 560, 633, 664, 807, 832, 858, 870.

SEC. 16. Every bill shall be fully and distinctly read, on three different days, unless, in case of urgency, three-fourths of the house, in which it shall be pending, shall dispense with this rule. (1) No bill shall contain more than one subject, which shall be clearly expressed in its title; (2) and no law shall be revived, or amended, unless the new act contain the entire act revived, or the section or sections amended; (3) and the section, or sections, so amended, shall be repealed. (4) (*See Const. 1802, Art. I, § 17.*)

Bills to be read three times.

Not to contain more than one subject.

Acts revived or amended.

(1) This section does not require that every amendment to a bill shall be read three times. *Miller v. State*, 3 Ohio St., 475. (*See next note.*)

(2) This provision was incorporated into the Constitution for the purpose of making it a permanent rule of the Houses, and to operate only on bills in their progress through the General Assembly. It is directory only, and the supervision of its observance must be left to the General Assembly. *Pim v. Nicholson*, 6 Ohio St., 176. The same is equally true of the provision that "every bill shall be fully and distinctly read on three different days." *Miller v. State*, 3 Ohio St., 475-483.

Every reasonable intendment is to be made in favor of the proceedings of the Legislature. It is not to be presumed that the Assembly, or either House of it, has violated the Constitution. When, therefore, it appears by the journals that a bill was amended by striking out all after the enacting clause and inserting a "new bill," so called, it cannot be presumed that the matter inserted was upon a different subject from that stricken out; especially when the matter inserted is consistent with the title borne by the bill before such amendment. This is the more obvious, since the Constitution provides that "no bill shall contain more than one subject, which shall be clearly expressed in its title." Nor does the fact that the inserted matter is called a "new bill," prove that it was not an amendment. *Miller v. State*, 3 Ohio St., 475.

(3) "This provision was inserted, mainly, to prevent improvident legislation; and with that view, as well as for the purpose of making all acts, when amended, intelligible, without an examination of the statute as it stood prior to the amendment, it requires every section, which is intended to supersede a former one, to be fully set out. No amendments are to be made by directing specified words or clauses to be stricken from or inserted in a section of a prior statute which may be referred to; but the new act must contain the section as amended—not the section or sections which it proposes to amend, but the section or sections in full, as it purports to amend them. That is, it requires not a recital of the old section, but a full statement in terms of the new one." *Lehman v. McBride*, 15 Ohio St., 573-602, 603—Scott, J.

(4) This clause is directory only to the General Assembly, and was

not intended to abrogate the long-established rule as to repeals by implication. *Lehman v. McBride*, 15 Ohio St., 573.

1 Debates, 163, 233, 297; 2 Debates, 150, 151, 318, 560, 561, 633, 664, 807, 825, 832, 858, 870.

To be signed  
by presiding  
officers.

SEC. 17. The presiding officer of each house shall sign, publicly in the presence of the house over which he presides, while the same is in session, and capable of transacting business, all bills and joint resolutions passed by the general assembly. (*See Const. 1802, Art. I, § 17.*)

1 Debates, 293; 2 Debates, 182, 318, 634, 664, 807, 832, 858, 870.

Style of laws.

SEC. 18. The style of the laws of this state shall be, "*Be it enacted by the General Assembly of the State of Ohio.*" (*See Const. 1802, Art. I, § 18.*)

1 Debates, 163, 171, 233; 2 Debates, 318, 561, 633, 664, 807, 832, 858, 870.

Exclusion  
from office.

SEC. 19. No senator or representative shall, during the term for which he shall have been elected, or for one year thereafter, be appointed to any civil office under this state, which shall be created or the emoluments of which shall have been increased, during the term for which he shall have been elected. (*See Const. 1802, Art. I, § 20.*)

1 Debates, 163, 234-236; 2 Debates, 151, 318, 562, 563, 577, 633, 664, 807, 832, 858, 870.

Term of  
office, and  
compensa-  
tion of of-  
ficers in cer-  
tain cases.

SEC. 20. The general assembly, in cases not provided for in this constitution, shall fix the term of office and the compensation of all officers; (1) but no change therein shall affect the salary (2) of any officer during his existing term, unless the office be abolished.

(1) The act of May 1, 1862 (59 O. L., 104), prescribing the fees of county auditors, "is not in conflict with this section nor with section twenty-six of this article." *Crockett v. State*, 18 Ohio St., 9.

"The duty enjoined by this section in regard to fixing the compensation of officers, does not require the General Assembly to fix the sum or amount which each officer is to receive, but only requires that it shall prescribe or fix the rule by which such compensation is to be determined." *Ib.* 21—White, J.

The act of May 4, 1869 (66 O. L., 80), authorizing the courts to appoint trustees to carry out the provisions of the act and to fix their compensation, is not in conflict with this provision. The trustees, for whose appointment it provides, are not public officers within the meaning of this provision. *Walker v. Cincinnati*, 21 Ohio St., 14.

"This clause cannot be regarded as comprehending more than such officers as may be created to aid in the permanent administration of the government. It cannot include all the agencies which the General Assembly may authorize municipal and other corporations to employ for local and temporary purposes." *Ib.* 51—Scott, C. J.

The case of a clerk of the court holding his office by appointment to fill a vacancy, is one of the cases in which the Constitution has not fixed the term of office, but left that to be done by the Legislature. *Staic v. Neibling*, 6 Ohio St., 40-43—Bartley, C. J.

(2) It is manifest from the change of expression in the two clauses of the section, that the word "salary" was not used in a general sense, embracing any compensation fixed for an officer, but in its limited sense, of an annual or periodical payment for services—a payment dependent on the time, and not on the amount of the service rendered. Where the compensation is to be ascertained by a percentage on the amount of money received and disbursed, it is not a salary within the meaning of this section. *Thompson v. Phillips*, 12 Ohio St., 617, 618.

1 Debates, 163, 233, 234; 2 Debates, 151, 318, 561, 562, 577, 633, 663, 664, 807, 832, 858, 870.

SEC. 21. The general assembly shall determine, by law, before what authority, and in what manner, the trial of contested elections shall be conducted.

A specific mode of contesting elections in this state having been provided by statute, according to this requirement of the Constitution, that mode alone can be resorted to, in exclusion of the common law mode of inquiry by proceedings in *quo warranto*. The statute which gives this special remedy and prescribes the mode of its exercise binds the state, as well as individuals. *State v. Marlow*, 15 Ohio St., 114.

2 Debates, 228, 318, 563, 564, 577, 633, 664, 807, 832, 858, 870.

SEC. 22. No money shall be drawn from the treasury, except in pursuance of a specific appropriation, made by law; and no appropriation shall be made for a longer period than two years. (*See Const. 1802, Art. I, § 21.*)

Appropriations.

No officer of the state can enter into any contract, except in cases specified in the Constitution, whereby the General Assembly will, two years after, be bound to make appropriations, either for a particular object or a fixed amount; the power and the discretion, intact, to make appropriations, in general, devolving on each biennial General Assembly, and for the period of two years. *State v. Medbery*, 7 Ohio St., 522.

"The sole power of making appropriations of the public revenue is vested in the General Assembly. It is the setting apart and appropriating by law a specified amount of the revenue for the payment of the liabilities which may accrue or have accrued. No claim against the state can be paid, no matter how just or how long it may have remained overdue, unless there has been a specific appropriation made by law to meet it. By virtue of this power of appropriation, the General Assembly exercise their discretion in determining, not only what claims against, or debts of the state shall be paid; but the amount of expenses which may be incurred. If they authorize expenses or debts to be incurred, without an appropriation to pay them, and the expenses are incurred, those expenses create a debt against the state, and it must remain such, until payment under an appropriation afterward made. The General Assembly usually, however, provide for the current expenses for a period not exceeding two years, out of the incoming revenues, by making appropriations of a sufficient amount of money to pay the expenses during that period, and provide by law for

the raising of revenue sufficient to meet the appropriations. The discretion of each General Assembly for the period of two years in respect to the amount of expenditures, except in some special cases, relating to salaries, is without limit and without control; but each must provide revenue, and set apart a sufficient amount by a law operative within the same two years, to pay all expenses and claims. *Id.* 528, 529—Swan, J.

1 Debates, 163, 237, 297; 2 Debates, 151, 318, 564, 633, 664, 807, 832, 858, 870.

Impeachment, how instituted, and conducted.

SEC. 23. The house of representatives shall have the sole power of impeachment, but a majority of the members elected must concur therein. Impeachments shall be tried by the senate; and the senators, when sitting for that purpose, shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the senators. (*See Const. 1802, Art. I, § 23.*)

1 Debates, 163, 298; 2 Debates, 151, 318, 566, 633, 664, 807, 832, 858, 870.

Who liable to impeachment and punishment.

SEC. 24. The governor, judges, and all state officers, may be impeached for any misdemeanor in office; but judgment shall not extend further than removal from office, and disqualification to hold any office, under the authority of this state. The party impeached, whether convicted or not, shall be liable to indictment, trial, and judgment, according to law. (*See Const. 1802, Art. I, § 24.*)

1 Debates, 163, 239-241; 2 Debates, 151, 318, 566, 589, 633, 664, 807, 832, 858, 870.

When session to commence.

SEC. 25. All regular sessions of the general assembly shall commence on the first Monday of January, biennially. The first session, under this constitution, shall commence on the first Monday of January, one thousand eight hundred and fifty-two. (*See Const. 1802, Art. I, § 25.*)

1 Debates, 163, 241-257; 2 Debates, 151-158, 161-164, 318, 566, 567, 581, 583, 633, 664, 807, 832, 858, 870.

What laws to have a uniform operation.

SEC. 26. All laws, of a general nature, (1) shall have a uniform operation throughout the state; (2) nor, shall any act, except such as relates to public schools, be passed, to take effect upon the approval of any other authority than the general assembly, except, as otherwise provided in this constitution. (3)

(1) "Under the former Constitution, laws having a general subject matter, and, therefore, 'of a general nature,' were frequently limited expressly, in their operation, to one or more counties, to the exclusion of other portions of the state. As a consequence, on the same subject, there might be one law for Hamilton county, another for Franklin, and still a third for Ashtabula. This naturally led to improvident legislation, enacted by the votes of legislators who were indifferent in the premises, because their own immediate constituents were not to be affected by it. To arrest and for the future prevent this evil, this provision was inserted in the present Constitution." *Lehman v. McBride*, 15 Ohio St., 573-605—Scott, J.



"There appears to be a clear distinction between a general law and a law of a general nature. It might be in the power of the Legislature to confer on many laws the form of a general law; but the nature of a law, whether general or local and special, is inherent in the law itself, and a matter which the Legislature can neither give nor take away by the manner in which it is passed or published. Whether, therefore, any law be a law of a general nature, will depend on the provisions of the law, and be a matter of judicial construction. The laws of a general nature are intended to have a uniform operation throughout the state. Laws, therefore, which from their nature cannot operate uniformly throughout the state, cannot be embraced under the expression of laws of a general nature. The Legislature may provide, by general laws, for matters in their nature local. Indeed, as to some matters, the Legislature, it has been supposed, are required so to do by the Constitution, as in the case of the organization of cities and villages. However general some of the laws on this subject are in form, they are in their nature essentially special, and must of necessity be local and partial in their operation. Except as to some specified matters, the Legislature is not prohibited from passing local and special laws, as to matters in their nature local and special. The prohibition is not to confine a law, in its nature general, to a particular locality; or not to except from the operation of a law of a general nature a particular locality. If, therefore, any subject matter is in its nature local, requiring special legislation, this section does not prohibit special legislation on that subject. The Legislature is not required to provide for every local and special matter by general laws, whenever it can be done, but are prevented from restricting the operations of laws of a general nature to any part of the state less than the whole. Such laws, when enacted, are to have a uniform operation throughout the state; their operation cannot be confined to one county or to fifty counties. Laws conferring power on the county commissioners to erect public buildings, cannot be considered laws of a general nature, having a uniform operation throughout the state. Laws regulating those matters in the government of the counties of a state, in their nature different, depending on taste and discretion, as to which no uniform rule can be prescribed, must be, in their nature, special. In the absence of any express provision of the Constitution, that the counties of the state shall be governed alike, by the same general laws, I can see no reason why special laws for the purpose may not be passed. If special laws on the subject can be passed, then no general law that is passed is, necessarily, a law of a general nature. Undoubtedly, laws having for their object the regulation of the counties of the state, may be of a general nature, and have a uniform operation. In the same act, one part may contain a law of that description, and another part a law in its nature special." *Ruffner v. Com. of Hamilton Co.*, 1 Disney's Rep., 196-202, 205—Gholson, J.

The local act of February 24, 1848, "relating to the duties and powers of the county commissioners of Hamilton county" (Local Statutes, vol. 46, 267), prescribing the mode in which the commissioners of that county shall make contracts, is not of a general nature, and is there-

fore not inconsistent with the present Constitution of the state, by reason of its not having a uniform operation throughout the state, so to be repealed by implication. *Ruffner v. Com. of Hamilton Co.*, 1 Disney's Rep., 39, 197.

Nor is the act of March 7, 1835 (S. & C., 444), to amend the act entitled "An act for the more effectual punishment of certain offenses in the county of Hamilton," so in conflict with this section as to be thereby abrogated. This section had, at the adoption of the Constitution, only a prospective, and not a retrospective, effect upon legislation. *Allbyer v. State*, 10 Ohio St., 588.

The act of May 1, 1862 (59 O. L., 104), "prescribing the fees of county auditors," is not in conflict with this section. *Cricket v. State*, 18 Ohio St., 9. This section clearly was not intended to require that an act providing a new rule of compensation of officers subsequently coming into office should be invalid, unless it also applied to the future services of existing officers. *Ib.*, 22.

The act of April 6, 1870 (67 O. L., 36), "limiting the compensation of certain officers therein named," and the supplemental act of April 12, 1871 (68 O. L., 58), and which can only operate in Hamilton county, are not laws of a general, but of a local nature, and are therefore not in conflict with this section. *State v. Judges*, 21 Ohio St., 1.

An act of the General Assembly that operates only upon all cities in the state of the first class having, at the last federal census, less than one hundred thousand inhabitants, does not contravene this section. *Welker v. Potter*, 18 Ohio St., 85.

The act of the General Assembly of April 9, 1856, "to restore to the court of common pleas the jurisdiction of minor offenses in certain counties in the state" (53 O. L., 107), being general in its nature, and yet limited in express terms to a part of the counties of the state, is in conflict with this provision. *Kelley v. State*, 6 Ohio St., 269. The courts of common pleas in Ohio being an organization of a general nature, and having by law jurisdiction over every citizen, the laws which relate to and regulate their jurisdiction and organization are laws of a general nature, and are imperatively required to have a uniform operation throughout the state. *Ib.*, 272. (*See Art. IV, § 8. Note.*)

(2) "Of the term 'uniform operation,' it would be difficult to give any satisfactory general definition. It is not confined to the taking effect and being a law throughout the state, for every law may be said to have that operation. Is it sufficient that it may operate uniformly at the discretion of different and distinct bodies throughout the state? In other words, is a mere power to act upon subject matters, in their nature distinct and different, though it may be of a like kind, the uniform operation of a law? Does the operation of the law consist in its effect on those who, by its means, are affected in person or estate, or in the grant of a power to produce the effect? If a like power be given to bodies created for the purpose in all the counties of the state; but the exercise of the power depends on the discretion of those bodies, and in some counties it may be exercised, and in some it may not; in some counties it may be exercised to a certain extent, and in others to a different extent, involving heavy burdens upon the people, or light, as the discretion of those acting under the power shall determine. Does

the operation of the law consist in the grant of power or its exercise. If in the latter, it seems clear that such a law is not one having a uniform operation throughout the state. From its nature, it cannot have a uniform operation; and if so, then it cannot be a law of a general nature, within the meaning of the Constitution. It may be a general law, because, in general terms, and by a general description, applicable to all, it confers powers upon distinct bodies of men; but as these bodies of men may, and indeed, in many cases, of necessity must, exercise the power differently, and to a different extent, and with different effect on those to be affected, it is not a law of a general nature." *Ruffner v. Com. of Hamilton Co.*, 1 Disney's Rep., 196-204—Gholson, J.

(3) In *C. W. & Z. R. R. Co. v. Com. of Clinton Co.*, 1 Ohio St., 77-87, 88, 89, Ranney, J., says that no one denies the proposition that the General Assembly cannot surrender any portion of the legislative authority with which it is invested, or authorize its exercise by any other person or body; that this inability arises no less from the general principle applicable to every delegated power requiring knowledge, discretion and rectitude in its exercise, than from the positive provisions of the Constitution itself; that in determining whether a legislative act contravenes this clause or not, the true distinction is between the delegation of the power to make the law, which necessarily involves a discretion as to what it shall be, and conferring an authority or discretion as to its execution, to be exercised under and in pursuance of the law; that the first cannot be done; that to the latter no valid objection can be made. In this case it was accordingly held, that an act authorizing the commissioners of a county to subscribe to the capital stock of a railroad company does not delegate legislative power or contravene the Constitution of 1802 (under which it was passed), nor the present Constitution, in providing that the subscription shall not be made until the assent of a majority of the electors of the county is first obtained at an election held for that purpose.

The principle in such case is, that the act takes effect as soon as passed, and that, therefore, this provision of the Constitution does not apply, though the act provides for a vote of the people, as a condition precedent to the subscription. *Cass v. Dillon*, 2 Ohio St., 607; *Thompson v. Kelley*, *Ib.* 647. The same rule is applicable to township subscriptions to the capital stock of railroad companies. *S. & I. R. R. Co. v. North Tp.*, 1 Ohio St., 105. Or of plankroad companies. *Loomis v. Spencer*, *Ib.* 153. And to an act providing for a vote upon the question of the removal of a county seat, as required by Art. II, Sec. 30, in which act are contained certain sections, authorizing the election, prescribing the manner of conducting it, and of making the returns, recording the results, etc. *State v. Com. of Perry Co.*, 5 Ohio St., 497; *Noble v. Com. of Noble Co.*, *Ib.* 524. And to a statute which requires a preliminary vote of the electors of a township, before an assessment for the purpose of paying for lands purchased for a township cemetery is made by the trustees. *Paris Tp. v. Cherry*, 8 Ohio St., 564.

1 Debates, 164, 259; 2 Debates, 215-219, 221-228, 318, 568, 578, 579, 633, 664, 807, 832, 858, 870.

Election and appointment of officers and the filling of vacancies.

Vote for U.S. senator to be viva voce.

SEC. 27. The election and appointment of all officers, (1) and the filling of all vacancies, not otherwise provided for by this constitution, or the constitution of the United States, shall be made in such manner as may be directed by law; (2) but no appointing power (3) shall be exercised by the general assembly, except as prescribed in this constitution, and in the election of United States senators; and in these cases the vote shall be taken "*viva voce*."

(1) Emolument is a usual but not a necessary element to constitute an office. Authority and power relating to the public interests, conferred by statute, and which may be vested in a board or individuals by election or the appointing power of the state, create an office. *State v. Kennon*, 7 Ohio St., 547.

(2) The General Assembly may by law direct the manner in which all offices existing or created by law or vacancies therein shall be filled by appointment, except in cases provided by the Constitution. Directing by law the manner in which an appointment shall be made, and making an appointment, are the exercise of two different and distinct powers; the one prescribing how an act shall be done, being legislative; and the other, doing the act, being administrative. *Ib.* 546.

(3) "The phrase 'appointing power,' as here used, is one of no ambiguous signification. When employed in reference to matters pertaining to government, or to the distribution of the powers of government, it means the power of appointment to office—the power to select and indicate by name individuals to hold office, and to discharge the duties and exercise the powers of officers. Theirs is a public duty, charge and trust, conferred by public authority, for public purposes of a very weighty and important character. Their duties, their charge and trust, are not transient, occasional or incidental, but durable, permanent and continuous." *Ib.* 556—Brinkerhoff, J.

The statutes of April 12, 1858 (55 O. L., 122, 136), which provide for the creation of a board, authorizing it to appoint commissioners of the State House, and the directors of the penitentiary of the state, and to fill all vacancies which might occur in the offices of directors or State House commissioners, and authorizing such board or a majority to remove any director of the penitentiary for causes specified, or which might by the board be deemed sufficient, created offices; and conceding that the General Assembly could provide for the creation of such board and offices, yet the General Assembly could not exercise the power of appointing the officers of such board without exercising "appointing power," which is forbidden by the Constitution. The exercise of the power of appointment and removal of state officers, and the filling of vacancies which may occur in state offices, is a high public function and trust, and not a private, or casual, or incidental agency; and the officers of a board so created by statute to exercise these public functions, are vested with official state power, and hold and exercise a public franchise and office. *Ib.* 547.

The conferring of authority on the judges of the Superior Court of Cincinnati to appoint trustees to carry out the purpose of the act of May 4, 1869 (66 O. L., 80), the construction of a railroad by that city,

is not the exercise of appointing power by the General Assembly, which this section forbids. It is not the creation of a new office, but the annexing of a new duty to an existing office. *Walker v. Cincinnati*, 21 Ohio St., 15. (See Art. VII, § 2, Note.)

1 Debates, 164, 259, 260; 2 Debates, 164, 318, 568, 569, 578, 590, 633, 664, 807, 832, 858, 870.

SEC. 28. The general assembly shall have no power to pass retroactive laws, (1) or laws impairing the obligation of contracts; (2) but may, by general laws, authorize courts to carry into effect, upon such terms as shall be just and equitable, (3) the manifest intention (4) of parties, and officers, (5) by curing omissions, defects, and errors, in instruments and proceedings, arising out of their want of conformity with the laws of this state. (6) (See Const. 1802, Art. VIII, § 16.)

Retroactive laws.

(1) "The words 'retrospective' and 'retroactive,' as applied to laws, seem to be synonymous. Justice Story thus defines a retrospective law: 'Upon principle, every statute which takes away or impairs vested rights, acquired under existing laws, or creates a new obligation, imposes a new duty, or attaches a new disability, in respect to transactions or considerations already past, must be deemed retrospective.'" *Rairden v. Holden*, 15 Ohio St., 207-210—Brinkerhoff, C. J.

A statute purely remedial in its operation on pre-existing rights, obligations, duties and interests, is not within the mischiefs against which this clause of the Constitution was intended to guard, and is not, therefore, within a just construction of its terms. *Green Tp. v. Campbell*, 16 Ohio St., 11; *Rairden v. Holden*, 15 Ohio St., 207; *Goshorn v. Purcell*, 11 Ohio St., 641; *Butler v. Toledo*, 5 Ohio St., 225; *Acheson v. Miller*, 2 Ohio St., 203; *Trustees of C. F. R. E. A. v. McCaughy*, Ib., 152; *Kearny v. Buttes*, 1 Ohio St., 362; *Bartholomew v. Bentley*, Ib., 37; *Lewis v. McElvain*, 16 Ohio, 347; *Johnson v. Bentley*, Ib., 97; *Towsey v. Avery*, 11 Ohio, 90; *Hays v. Armstrong*, 7 Ohio, 1 pt., 248.

Statutes affecting substantial interests, and rights of property, have a prospective operation only, unless the contrary intention is clearly expressed. *Kelley v. Kelso*, 5 Ohio St., 198.

The acts of March 28, 1864 (61 O. L., 74), April 6, 1866 (63 O. L., 188), and April 16, 1867 (64 O. L., 231), providing for the payment of bounties to volunteers, have been declared not repugnant to this provision. *State v. Richland Tp.*, 20 Ohio St., 362; *State v. Wilkesville Tp.*, Ib., 288; *State v. Harris*, 17 Ohio St., 608; *Cass Tp. v. Dillon*, 16 Ohio St., 39.

Nor is the act of March 24, 1864 (61 O. L., 57), "supplementary to the act entitled 'An act to provide for the locating, establishing and constructing ditches, drains and water-courses.'" *Miller v. Graham*, 17 Ohio St., 1. Nor the act of April 7, 1854 (4 Curwen, 2571; S. & C., 619), concerning suits on the bond of executors and administrators. *Rairden v. Holden*, 15 Ohio St., 207.

(2) The fifth section of the act of March 2, 1853 (51 O. L., 529), "to provide for the removal of the county seat of Perry county from the town of New Lexington to the town of Somerset," imposes upon the County of Perry a forfeiture of subsisting rights acquired under a legal

contract, in the event of a majority vote against the removal of the seat of justice, and is, therefore, unconstitutional. *State v. Com. of Perry Co.*, 5 Ohio St., 497.

But the sixth section of the act of April 29, 1854 (52 O. L., 177), "to provide for the permanent location of the seat of justice of Noble county, by the legal voters thereof, and for the erection of public buildings therein," provides only for the natural and necessary exigencies arising from fixing the county seat either at Olive or Sarahsville; and which exigencies must have been in the contemplation of the voters, whether provided for by the act or not. This act is not in conflict with this provision of the Constitution. *Noble v. Com. of Noble Co.*, 5 Ohio St., 524.

The act of May 3, 1852 (50 O. L., 263), in relation to plankroad and turnpike companies, in so far as it undertakes to impose upon stockholders, without their assent, individual liabilities not imposed by their charters, or by the laws under which they have been organized, is a law impairing the validity of the stockholders' contract with the company, and, therefore, unconstitutional. *Ireland v. Palestine T. P. Co.*, 19 Ohio St., 369.

See also, as to the obligation of contracts, *Phillips v. Dugan*, 21 Ohio St., 466; *Smith v. McKinney*, 22 Ohio St., 200. As to the power of the General Assembly to alter, revise and amend the charters of incorporated companies, see *Const.* 1802, *Art. VIII*, § 16, *Notes*.

(3) This provision is permissive and not mandatory, and it still remains a question for the courts to determine under what circumstances, on what principles of equity, they will give effect to an instrument or conveyance which is invalid by law. *Hout v. Hout*, 20 Ohio St., 119.

(4) "The intention must be manifest; but how manifested is not expressed. The courts, under a direction to find the intention, with a view to the correction of an omission or defect, in analogy to like cases, would not act unless the intention was manifest; and in view of this principle of law, it is probable the expression was used. It may happen that a mere inspection of the imperfect instrument will show what is the omission, defect or error, and make manifest the intention of the parties. But giving the strictest meaning to the expression, 'manifest intention,' as applied to a written instrument, we think the courts are not confined to a mere inspection of the instrument, as to which the omission, defect or error is alleged to exist, but are, at least, entitled to be placed in the same position as if called on to construe and give effect to a perfect instrument. The object being to ascertain if there be an omission, defect or error in the instrument, which has prevented the manifest intention of the parties from being carried into effect, the court may look to the subject matter, the connection of the parties with it, and surrounding circumstances at the time of the execution of the instrument." *Goshorn v. Purcell*, 11 Ohio St., 641-647, 648—Gholson, J.

(5) "The language of this proviso extends not only to omissions of officers in proceedings connected with the execution of deeds, but to omissions, defects and errors in deeds—to the omissions, not only of officers, but of parties. We should, therefore, look rather to the principle of justice and right, which the rule was intended to

enforce by an application to past transactions, than to particular instances in which a like application had been made, though historically connected with the adoption of the rule." *Ib.*, 650.

(6) "It is obvious that the instrument or proceeding must be one which, had there been no omission, defect or error, would have carried into effect the intention of the parties or officers. If the instrument or proceedings be such that, in the absence of any omission, defect or error, it would have been inoperative, then it cannot be regarded as within the meaning of the proviso. This is shown from the requisition, that the omission, defect or error must arise from the want of conformity of the instrument or proceeding with the laws of the state. An instrument or proceeding which, having no omission, defect or error, would still not conform with the laws of the state, and, therefore, not carry into effect the intention, cannot be one of those intended. The proviso proceeds on the assumption that the instrument or proceeding, but for the omission, defect or error, would have conformed to the laws, and therefore have carried into effect the intention of the parties. It, therefore, does not extend to any instrument or proceeding not authorized by the laws of the state, as a valid and effectual expression of the intention of the parties. It does not authorize the General Assembly to give power or capacity to parties, not possessed when any instrument or proceeding was made or had. An attempt to do this would come within the prohibition against retroactive laws." *Ib.*, 646, 647.

"The principle, in view of which the language of the proviso should be construed, would extend that language to cases where parties competent to carry their intention into effect, by an instrument or proceeding made or had in conformity with the laws of the state, attempt to do so, but fail on account of an omission, defect or error; and the intention being manifest, justice and equity require that it should not be defeated by such omission, defect or error. The parties must be competent, their intention must be manifest, it must be evinced by some act, by some instrument or proceeding, though imperfect from a want of conformity with the law, and the relief must be upon just and equitable terms." *Ib.*, 650.

In 1828, L., the wife of G., having a fee simple estate in land, joined with her husband in a deed intending to convey her estate to F. By mistake, her name was omitted in the granting clause of the deed. In 1857, the General Assembly passed an act authorizing the court to correct such a mistake in the deed of a married woman, though occurring before the passage of the act. Held, that the proviso in this section authorized such an enactment. *Goshorn v. Purcell*, 11 Ohio St., 641; s. c. 2 Disney's Rep., 90; *Miller v. Hine*, 13 Ohio St., 565; *Smith v. Turpin*, 20 Ohio St., 478.

1 Debates, 164, 263-270, 273-284; 2 Debates, 165-175, 185-210, 240-281, 286, 318, 569, 589-593, 596, 597, 605-632, 664, 808, 832, 858, 870.

SEC. 29. No extra compensation shall be made to any officer, public agent, or contractor, after the service shall have been rendered, or the contract entered into; nor shall any money be paid, on any claim, the subject matter of which shall not have been provided for by pre-existing law,

No extra compensation.

unless such compensation, or claim, be allowed by two-thirds of the members elected to each branch of the general assembly.

At the time of the raid through Ohio by the rebel forces, led by John H. Morgan, in 1863, and their destruction of private property, there was no subsisting law requiring or authorizing the payment by the state of the damages thereby occasioned to individuals; and therefore, under the provisions of this section, claims for such damages can not be paid out of the state treasury till allowed by the concurrent votes of two-thirds of the members elected to each branch of the General Assembly. Upon the question whether such claims have been allowed by the number of members required by the Constitution, the legislative journals must furnish the appropriate evidence. *Fordyce v. Godman*, 20 Ohio St., 1.

1 Debates, 164, 284, 285; 2 Debates, 318, 569-574, 578, 597, 633, 664, 808, 832, 858, 870.

New  
counties.

SEC. 30. No new county shall contain less than four hundred square miles of territory, nor shall any county be reduced below that amount; and all laws creating new counties, changing county lines, or removing county seats, shall, before taking effect, be submitted to the electors of the several counties to be affected thereby, at the next general election after the passage thereof, and be adopted by a majority of all the electors voting at such election, in each of said counties; but any county now or hereafter containing one hundred thousand inhabitants, may be divided, whenever a majority of the voters residing in each of the proposed divisions shall approve of the law passed for that purpose; but no town or city within the same shall be divided, nor shall either of the divisions contain less than twenty thousand inhabitants. (*See Const.* 1802, *Art. VII*, § 3.)

The power to make new counties, and to change county lines, existed under the former Constitution. *State v. Choate*, 11 Ohio, 511.

The act to erect the county of Noble, passed March 11, 1851, is not inconsistent with this Constitution, nor repealed by it. *State v. Dudley*, 1 Ohio St., 437. Nor does the act of March 29, 1866 (63 O. L., 58), "to provide for the removal of the seat of justice of Wood county," contravene this provision. *Peck v. Weddell*, 17 Ohio St., 271; *Powers v. Reed*, 19 Ohio St., 189. And see Art. II, Sec. 28, Note 2.

2 Debates, 210, 211, 220, 240, 318, 574-581, 590, 633, 634, 653, 663, 664, 808, 832, 858, 870.

Compensa-  
tion of mem-  
bers and offi-  
cers of the  
general  
assembly.

SEC. 31. The members and officers of the general assembly shall receive a fixed compensation, to be prescribed by law, and no other allowance or perquisites, either in the payment of postage or otherwise; and no change in their compensation shall take effect during their term of office.

1 Debates, 293-297; 2 Debates, 211-214, 318, 634, 653, 663, 664, 808, 833, 858, 870.



SEC. 32. The general assembly shall grant no divorce, nor exercise any judicial power not herein expressly conferred. Divorces and judicial power.

The Constitution of 1802 contained no such prohibition; but in *Bingham v. Miller*, 17 Ohio, 445, it was held that the Legislature had no power, by a special act, to grant a divorce, that being the exercise of a judicial, not a legislative function—a function not granted to the Legislature by the Constitution; but that body having exercised the power for more than forty years, to avoid the consequences which would result from declaring all those void which had been granted by the Legislature—rendering illegitimate the issue of second marriages—the court would pronounce them valid.

1 Debates, 164, 258, 259; 2 Debates, 164, 318, 568, 633, 664, 808, 833, 858, 870.

### ARTICLE III.

#### EXECUTIVE.

SEC. 1. The executive department shall consist of a governor, lieutenant governor, secretary of state, auditor, treasurer, and an attorney general, who shall be chosen by the electors of the state, on the second Tuesday of October, and at the places of voting for members of the general assembly. (See *Const.* 1802, *Art. II*, §§ 2, 16; *Art. VI*, § 2.) Executive department.

1 Debates, 299–302, 313, 323–327; 2 Debates, 287, 289, 293, 294, 331–333, 349, 808, 834, 859, 870.

SEC. 2. The governor, lieutenant governor, secretary of state, treasurer and attorney general shall hold their offices for two years; and the auditor for four years. Their terms of office shall commence on the second Monday of January next after their election, and continue until their successors are elected and qualified. (See *Const.* 1802, *Art. II*, §§ 3, 16.) Term of office.

1 Debates, 300, 306, 323–326, 335, 336; 2 Debates, 287, 289, 293, 349, 808, 834, 835, 859, 870.

SEC. 3. The returns of every election for the officers named in the foregoing section shall be sealed up and transmitted to the seat of government, by the returning officers, directed to the president of the senate, who, during the first week of the session, shall open and publish them, and declare the result, in the presence of a majority of the members of each house of the general assembly. The person having the highest number of votes shall be declared duly elected; but if any two or more shall be highest, and equal in votes, for the same office, one of them shall be chosen by the joint vote of both houses. (See *Const.* 1802, *Art. II*, § 2.) Election returns.

1 Debates, 300, 306, 324; 2 Debates, 287, 808, 835, 859, 870.)

SEC. 4. Should there be no session of the general assembly in January next after an election for any of the officers aforesaid, the returns of such election shall be made to the secretary of state, and opened, and the result declared by the governor, in such manner as may be provided by law. Same subject.

2 Debates, 349, 808, 835, 859, 870.

Executive  
power  
vested in  
governor.

SEC. 5. The supreme executive power of this state shall be vested in the governor. (*See Const. 1802, Art. II, § 1.*)

Although the Governor, in the exercise of the supreme executive power of the state, may, from the nature of his authority, have a discretion which cannot be controlled by judicial power, yet in regard to a ministerial act, which might have been devolved on any other officer of the state, and affecting any specific private right, he may be made amenable to the compulsory power of the courts. *State v. Chase*, 5 Ohio St., 528. "Under our system of government, no officer is placed above the restraining authority of the law, which is truly said to be universal in its behests—all paying it homage, the least as feeling its care, and the greatest as not exempt from its power." The judicial power cannot interpose and direct in regard to the performance of an official act which rests in the discretion of any officer, whether executive, legislative or judicial. The constitutional provision declaring that 'the supreme executive power of this state shall be vested in the Governor,' clothes the Governor with important political powers, in the exercise of which he uses his own judgment or discretion, and in regard to which his determinations are conclusive. But there is nothing in the nature of the chief executive office of this state which prevents the performance of some duties merely ministerial being enjoined on the Governor. While the authority of the Governor is supreme in the exercise of his political and executive functions, which depend on the exercise of his own judgment or discretion, the authority of the judiciary of the state is supreme in the determination of all legal questions involved in any matter judicially brought before it. Although the state cannot be sued, there is nothing in the nature of the office of Governor which prevents the prosecution of a suit against the person engaged in discharging its duties." *Ib.*, 534, 535—Bartley, C. J.

1 Debates, 299, 302; 2 Debates, 808, 835, 859, 870.

He may re-  
quire writ-  
ten informa-  
tion, etc.

SEC. 6. He may require information, in writing, from the officers in the executive department, upon any subject relating to the duties of their respective offices; and shall see that the laws are faithfully executed. (*See Const. 1802, Art. II, § 7.*)

1 Debates, 300, 306; 2 Debates, 808, 835, 859, 870.

He shall  
recommend  
measures,  
etc.

SEC. 7. He shall communicate at every session, by message, to the general assembly, the condition of the state, and recommend such measures as he shall deem expedient. (*See Const. 1802, Art. II, § 4.*)

1 Debates, 300, 306, 324; 2 Debates, 287, 808, 835, 859, 870.

When and  
how he may  
convene the  
general  
assembly.

SEC. 8. He may, on extraordinary occasions, convene the general assembly by proclamation, and shall state to both houses, when assembled, the purpose for which they have been convened. (*See Const. 1802, Art. II, § 9.*)

1 Debates, 300, 306, 324, 336; 2 Debates, 287, 288, 808, 835, 859, 870.

When he  
may adjourn  
the general  
assembly.

SEC. 9. In case of disagreement between the two houses, in respect to the time of adjournment, he shall have power to adjourn the general assembly to such time as he may

think proper, but not beyond the regular meetings thereof. (*See Const. 1802, Art. II, § 11.*)

1 Debates, 300, 306, 324; 2 Debates, 288, 808, 835, 859, 870.

SEC. 10. He shall be commander-in-chief of the military and naval forces of the state, except when they shall be called into the service of the United States. (*See Const. 1802, Art. II, § 10.*)

Commander-in-chief of militia.

1 Debates, 300, 306; 2 Debates, 808, 835, 859, 870.

SEC. 11. He shall have power, after conviction, to grant reprieves, commutations, and pardons, for all crimes and offenses, except treason and cases of impeachment, upon such conditions as he may think proper; subject, however, to such regulations, as to the manner of applying for pardons, as may be prescribed by law. Upon conviction for treason, he may suspend the execution of the sentence, and report the case to the general assembly, at its next meeting, when the general assembly shall either pardon, commute the sentence, direct its execution, or grant a further reprieve. He shall communicate to the general assembly, at every regular session, each case of reprieve, commutation or pardon granted, stating the name and crime of the convict, the sentence, its date, and the date of the commutation, pardon, or reprieve, with his reasons therefor. (*See Const. 1802, Art. II, § 5.*)

May grant reprieves, commutations and pardons.

"The government is represented by the executive, to whom is solely confided the discretion when the prerogative is to be exercised. It is his function to grant or withhold the act of clemency, whether it be the remission of a pecuniary penalty, the commutation of a sentence, or the liberation of the prisoner. It is conceded that the power of absolute pardon is given to the executive, and this admission, as a general rule, would include the power to remit a portion of the punishment, or to modify it, as the circumstances of the particular case may properly suggest. Such, we might readily suppose, would be the result, whenever the general authority is granted; nor can we find any difficulty in arriving at the conclusion, that if the right to restrict or modify, or release the punishment, in whole or in part, exists, the power to annex a condition to the favor conferred is not a necessary sequence." *Ex parte Lockhart*, 1 Disney's Rep., 105-108—Storer, J. (*See Art. I, § 12, Note 1.*)

The act of February 1, 1853 (S. & C., 708), giving to parties imprisoned for non-payment of fines the benefit of the laws for the relief of insolvent debtors, and authorizing their discharge as such, is not an attempt to place the pardoning power in hands other than those of the Governor of the State. It is merely a modification of penalties prescribed for certain offenses, and is not in conflict with the Constitution. *Ex parte Scott*, 19 Ohio St., 581.

1 Debates, 300, 306, 307, 324; 2 Debates, 288, 293, 808, 835, 859, 870.

SEC. 12. There shall be a seal of the state, which shall be kept by the governor, and used by him officially; and shall be called "The Great Seal of the State of Ohio." (*See Const. 1802, Art. II, § 14.*)

Seal of state, and by whom kept.

1 Debates, 300, 307; 2 Debates, 808, 835, 859, 870.

How grants  
and commis-  
sions issued.

SEC. 13. All grants and commissions shall be issued in the name, and by the authority, of the state of Ohio; sealed with the great seal; signed by the governor, and countersigned by the secretary of state. (*See Const. 1802, Art. II, § 15.*)

1 Debates, 300, 307; 2 Debates, 808, 835, 859, 870.

Who ineligi-  
ble for gov-  
ernor.

SEC. 14. No member of congress, or other person holding office under the authority of this state, or of the United States, shall execute the office of governor, except as herein provided. (*See Const. 1802, Art. II, § 13.*)

1 Debates, 300, 307; 2 Debates, 288, 808, 835, 859, 870.

Who shall  
fill his place  
when vacan-  
cy occurs.

SEC. 15. In case of the death, impeachment, resignation, removal, or other disability of the governor, the powers and duties of the office, for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve upon the lieutenant governor. (*See Const. 1802, Art. II, § 12.*)

1 Debates, 300, 307; 2 Debates, 331-333, 808, 835, 859, 870.

Lieutenant  
governor.

SEC. 16. The lieutenant governor shall be president of the senate, but shall vote only when the senate is equally divided; and in case of his absence, or impeachment, or when he shall exercise the office of governor, the senate shall choose a president *pro tempore*.

1 Debates, 300; 2 Debates, 293, 808, 835, 859, 870.

If vacancy  
shall occur  
while exe-  
cuting the  
office of gov-  
ernor who  
shall act.

SEC. 17. If the lieutenant governor, while executing the office of governor, shall be impeached, displaced, resign or die, or otherwise become incapable of performing the duties of the office, the president of the senate shall act as governor, until the vacancy is filled, or the disability removed; and if the president of the senate, for any of the above causes, shall be rendered incapable of performing the duties pertaining to the office of governor, the same shall devolve upon the speaker of the house of representatives. (*See Const. 1802, Art. II, § 12.*)

1 Debates, 300; 2 Debates, 293, 331-333, 808, 809, 835, 859, 870.

What vacan-  
cies gover-  
nor to fill.

SEC. 18. Should the office of auditor, treasurer, secretary or attorney general, become vacant, for any of the causes specified in the fifteenth section of this article, the governor shall fill the vacancy until the disability is removed, or a successor elected and qualified. Every such vacancy shall be filled by election, at the first general election that occurs more than thirty days after it shall have happened; and the person chosen shall hold the office for the full term fixed in the second section of this article.

1 Debates, 300, 323-336; 2 Debates, 289, 290, 349, 809, 835, 859, 870.

Compensa-  
tion.

SEC. 19. The officers mentioned in this article shall, at stated times, receive for their services, a compensation to be established by law, which shall neither be increased nor diminished during the period for which they shall have been elected. (*See Const. 1802, Art. I, § 19.*)

1 Debates, 300, 313-324; 2 Debates, 288, 289, 291, 293, 349, 809, 835, 859, 870.

SEC. 20. The officers of the executive department, and of the public state institutions shall, at least five days preceding each regular session of the general assembly, severally report to the governor, who shall transmit such reports, with his message, to the general assembly.

2 Debates, 293, 809, 835, 859, 870.

Officers to report to governor, and when.

## ARTICLE IV.

### JUDICIAL.

SEC. 1. The judicial power (1) of the state shall be vested in a supreme court, (2) in district courts, courts of common pleas, courts of probate, justices of the peace, and such other courts, inferior to the supreme court, in one or more counties, as the general assembly may, from time to time, establish. (3) (*See Const. 1802, Art. III, § 1.*)

In whom judicial power vested.

(1) It is the right and duty of the judicial tribunals to determine whether a legislative act drawn in question in a suit pending before them, is opposed to the Constitution of the United States, or of this state, and if so found, to treat it as a nullity. *C. W. & Z. R. R. Co. v. Com. of Clinton Co.*, 1 Ohio St., 77.

In such case the presumption is always in favor of the validity of the law; and it is only when manifest assumption of authority and a clear incompatibility between the Constitution and the law appear, that the judicial power will refuse to execute it. *Ib.*; *State v. Dudley*, *Ib.*, 437; *Cass v. Dillon*, 2 Ohio St., 608; *Hill v. Higdon*, 5 Ohio St., 243; *Goshorn v. Purcell*, 11 Ohio St., 641; *Armstrong v. Treas. of Athens Co.*, 10 Ohio, 235.

While we should be careful not to extend the powers of government, by far-fetched implication, we should be equally careful not to defeat the purpose of the Constitution, by a narrow and unreasonable construction. *Cass v. Dillon*, 2 Ohio St., 608.

Courts cannot nullify an act of legislation on the vague ground that they think it opposed to a general latent spirit, supposed to pervade or underlie the Constitution, but which neither its terms nor its implications clearly disclose. *Walker v. Cincinnati*, 21 Ohio St., 14.

"The general and abstract question, whether an act of the Legislature be unconstitutional, cannot with propriety be presented to a court; the question must be, whether the act furnishes the rule to govern the particular case." *Foster v. Com. of Wood Co.*, 9 Ohio St., 540-543—Gholson, J.

As a general rule, one part of an act will not be held unconstitutional, and another part constitutional, unless the respective parts are independent of each other. They must stand or fall together. *State v. Com. of Perry Co.*, 5 Ohio St., 497.

But parts of an enactment, when capable of separation, may be valid and effectual, when other parts may be void, by reason of repugnancy to a constitutional provision. *Stevens v. State*, 3 Ohio St., 453.

The rejection of some of the provisions of a statute, for unconstitutionality, will not vary the sense or meaning of its remaining provisions, which are to be construed as well in the light of those rejected as of those which remain. *State v. Dombaugh*, 20 Ohio St., 167.

(2) The Supreme Court of the United States has appellate jurisdiction, in certain cases, over the courts of last resort in the several states. *Piqua Bank v. Knoup*, 6 Ohio St., 342; *Skelly v. Jefferson Bank*, 9 Ohio St., 606.

(3) See Art. IV., § 15, Note 1.

1 Debates, 430, 551, 584, 585, 606; 2 Debates, 369-371, 384, 385, 389, 391, 392, 396, 401, 402, 483, 484, 668-674, 678-681, 685, 686, 687, 695-698, 809, 835, 859, 870.

The supreme  
court.

SEC. 2. The supreme court shall consist of five judges, a majority of whom shall be necessary to form a quorum, or to pronounce a decision. It shall have original jurisdiction in quo warranto, mandamus, habeas corpus, and procedendo, (1) and such appellate jurisdiction as may be provided by law. (2) It shall hold at least one term in each year, at the seat of government, and such other terms, at the seat of government, or elsewhere, as may be provided by law. The judges of the supreme court shall be elected by the electors of the state at large. (*See Const. 1802, Art. III, § 2.*)

(1) The original jurisdiction of the Supreme Court is limited by the Constitution to quo warranto, mandamus, habeas corpus, and procedendo. *Logan Branch Bank, ex parte*, 1 Ohio St., 432; *Kent v. Mahaffy*, 2 Ohio St., 498.

"This is the only original jurisdiction granted by this instrument, and it would be wholly inconsistent with, and in a great measure destructive of, the judicial system it ordains, to suppose that this original jurisdiction can be enlarged by law. It is true there is no express prohibition against it, but none was necessary. The court can exercise only such powers as the Constitution itself confers, or authorizes the Legislature to grant. It can derive no power elsewhere. The only jurisdiction that the Legislature is authorized to confer upon the Supreme Court, is appellate jurisdiction. For it cannot be supposed that, by the general grant of legislative power, in the second article of the Constitution, the legislative authority to confer powers upon courts is extended beyond the authority vested in the Assembly by the fourth, or judicial, article." *Kent v. Mahaffy*, 2 Ohio St., 498-499—Thurman, J.

The power to grant an injunction in a case pending in the Court of Common Pleas cannot constitutionally be conferred on the Supreme Court. *Ib.*, 498. And see *Griffith v. Com. of Crawford Co.*, 20 Ohio, 609.

Nor can such power be conferred on a single judge of that court, sitting at chambers. *P. Ft. W. & C. R. R. Co. v. Hurd*, 17 Ohio St., 144.

Nor has that court original jurisdiction, under the Constitution, to hear and determine an action purporting to be brought therein to enjoin illegal taxes. *Wheeler v. Lynn*, 8 Ohio St., 393.

(2) The appellate jurisdiction of the Supreme Court extends only to the judgments and decrees of courts created and organized in par-

suance of the provisions of the Constitution. Therefore the appeal from the decision of the Auditor of State, provided in the seventy-fourth section of the act of April 13, 1852 (50 O. L., 166), "for the assessment and taxation of all property in this state," etc., is in conflict with the provisions of the Constitution, from which the jurisdiction of the court is derived, and hence cannot be had. *Logan Branch Bank, ex parte*, 1 Ohio St., 432.

The statute authorizing the reservation of a cause by a District Court, or the supreme judge sitting therein, for decision by the Supreme Court, is constitutional. *Chase v. Washburne*, 2 Ohio St., 98.

The District and Supreme Courts are capable of receiving jurisdiction to review cases decided by themselves. *Longworth v. Sturges*, 4 Ohio St., 690.

By the Constitution, and the act of February 19, 1852 (50 O. L., 67), for the organization of the courts, ample power was given to the Supreme Court to review a judgment of the late Supreme Court on the circuit. *Groves v. Stone*, 3 Ohio St., 576.

1 Debates, 430, 431, 551, 585-592, 606-608, 611, 616, 622-624, 627, 628, 642, 651-655; 2 Debates, 353-357; 364-368, 384-391, 396, 400-402, 483, 484, 668, 681, 685, 688, 694-698, 809, 835, 859, 860, 870.

SEC. 3. The state shall be divided into nine common pleas districts, of which the county of Hamilton shall constitute one, of compact territory, and bounded by county lines; (1) and each of said districts, consisting of three or more counties, shall be subdivided into three parts, of compact territory, bounded by county lines, and as nearly equal in population as practicable; in each of which, one judge of the court of common pleas for said district, (2) and residing therein, shall be elected by the electors of said subdivision. Courts of common pleas shall be held, by one or more of these judges, in every county in the district, as often as may be provided by law; and more than one court, or sitting thereof, may be held at the same time in each district. (3) (*See Const. 1802, Art. III, § 3.*)

The common pleas.

(1) "To construe properly this provision, reference must be had to other parts of the Constitution. It certainly cannot mean that the number of the districts shall always continue to be nine, since power is given to the General Assembly to increase or diminish them (§ 15). It is equally clear that it cannot mean that the county limits shall always remain the same, as full power is given to change them and to make new counties (Art. II, § 30). To hold, on the other hand, that the limits of the districts must of necessity enlarge or diminish with the counties named as embraced in them, would be to say that Hamilton county, so reduced by division as to contain but twenty thousand inhabitants, would still constitute a district and be entitled to elect three judges. When taken in connection with the fact that the convention itself proceeded to make the division referred to in this section (see Art. XI, § 12), it is very clear to us that it must be regarded mainly as prescribing a rule for the government of their own action; and when they did act in accordance with it, and fixed the districts by definite

boundaries, they must so remain, securing to all the citizens included within them their right of suffrage in such districts, until changed by legislative enactment." *State v. Dudley*, 1 Ohio St., 437-449—Ranney, J.

(2) The judges of the courts of common pleas are judges of their respective districts, and not of the mere subdivision thereof. The subdivision of the districts is for election purposes merely. *Harris v. Grant*, 4 Ohio St., 472.

(3) There is nothing in the Constitution that forbids the holding of common pleas courts in different counties of a subdivision at the same time. *Ib.*

1 Debates, 431, 590-655; 2 Debates, 357, 370, 379-381, 384, 387, 389, 390, 396, 401, 402, 483-485, 681, 686, 695-698, 809, 835, 836, 860, 870.

Their jurisdiction.

SEC. 4. The jurisdiction of the courts of common pleas, and of the judges thereof, shall be fixed by law. (*See Const.* 1802, *Art. III*, §§ 3, 4, 5, 6.)

The Constitution confers no jurisdiction whatever upon the court of common pleas, in either civil or criminal cases. It is made capable of receiving jurisdiction in all such cases, but can exercise none until conferred by law. *Sterens v. State*, 3 Ohio St., 453.

See Art. II, § 26, Note 1; Art. IV, § 8, Note 3.

1 Debates, 431, 590; 2 Debates, 357, 370, 396, 401, 402, 483, 485, 685, 686, 695-698, 809, 836, 860, 870.

District courts.

SEC. 5. District courts shall be composed of the judges of the court of common pleas (1) of the respective districts, and one of the judges of the supreme court, (2) any three of whom shall be a quorum, and shall be held in each county therein, at least once in each year; but if it shall be found inexpedient to hold such court annually, in each county of any district, the general assembly may, for such district, provide that said court shall hold at least three annual sessions therein, in not less than three places: Provided, that the general assembly may, by law, authorize the judges of each district to fix the times of holding the courts therein. (3)

(1) The judges of the Court of Common Pleas are, by the Constitution and laws of this state, judges of the District Court, and, as such, empowered to exercise its authority. *Hollister v. Judges*, 8 Ohio St., 201.

(2) A District Court held by three or more Common Pleas judges, without the presence of a judge of the Supreme Court, is a lawful and constitutional District Court. *King v. Safford*, 19 Ohio St., 587.

(3) Section seven of the act of March 29, 1856 (53 O. L., 44), in relation to the time of holding courts, authorizing the judges of a district to appoint special terms for good cause, is authorized by this section. *Merchant v. North*, 10 Ohio St., 251.

1 Debates, 431, 590-626, 630, 645, 647-651, 655-660; 2 Debates, 357, 368-391, 396, 402, 483-485, 668, 669, 685, 686, 695-698, 809, 836, 860, 870.



SEC. 6. The district court shall have like original jurisdiction with the supreme court, and such appellate jurisdiction as may be provided by law. Their jurisdiction.

Under the new judicial system established by this Constitution and the enactments under it, the District Court has no jurisdiction, on the election of the defendant or otherwise, to try cases of murder, unless they were pending in the old Supreme Court, and went to the District Court by the transfer provided in the Constitution, as pending business. (*Schedule, § 12.*) *Parks v. State*, 3 Ohio St., 101; *Cass v. Dillon*, 2 Ohio St., 607-640; *Robbins v. State*, 8 Ohio St., 131-161.

"This unfortunate operation of the present Constitution, doubtless the result of oversight, is much to be regretted. While the new Constitution enlarged the means of obtaining justice in civil cases—providing two courts, and allowing a trial in each, as a matter of right, in contests for property it narrowed the chance for impartial justice, in causes in which life is at stake, by allowing a trial in such cases only in the Common Pleas, and taking away the right of the accused, which had existed, to elect to be tried in the higher tribunal, held by several judges removed from the local excitement and prejudice which too often surround the single judge in the trial of capital cases, in the Common Pleas." *Robbins v. State*, 8 Ohio St., 131-161—Bartley, C. J.

A statute authorizing the reservation of a cause by a District Court, or the Supreme Judge sitting therein, for decision by the Supreme Court, is constitutional. *Chase v. Washburne*, 2 Ohio St., 98.

1 Debates, 431, 590, 594, 595, 618, 619; 2 Debates, 396, 402, 483-485, 668, 685, 686, 695-698, 809, 836, 860, 870.

SEC. 7. There shall be established in each county, a probate court, which shall be a court of record, (1) open at all times, and holden by one judge, elected by the voters of the county, who shall hold his office for the term of three years, (2) and shall receive such compensation, payable out of the county treasury, or by fees, or both, as shall be provided by law. Probate courts.

(1) The Probate Courts of this state are, in the fullest sense, courts of record; they belong to the class whose records import absolute verity, that are competent to decide on their own jurisdiction, and to exercise it to final judgment, without setting forth the facts and evidence on which it is rendered. *Shroyer v. Richmond*, 16 Ohio St., 455.

(2) The county of Wyandot, on account of a tie vote, failed to elect a probate judge on the second Tuesday of October, 1851, as prescribed by the fourth section of the schedule to this Constitution. At the fall election of 1852, K. was elected to that office, and was commissioned for the term of three years. At the fall election of 1855, he was re-elected and commissioned for a like term. On the second Tuesday of October, 1857, and while K. still remained judge *de facto*, another election was held for the office, and M. received the highest number of votes. Held—That K. was, on each of his said elections, legally commissioned for the term of three years, and that M. was not therefore entitled to a commission to take effect from the 9th day of February,

1858. (*Schedule, § 4.*) *State v. Chase*, 7 Ohio St., 372. (*See Art. IV, § 13, note.*)

1 Debates, 431, 551, 591, 593, 602, 623, 669, 673, 675, 676; 2 Debates, 379, 390, 396-402, 483-485, 681, 682, 685, 686, 695-698, 809, 836, 860, 870.

Their jurisdiction.

SEC. 8. The probate court shall have jurisdiction in probate and testamentary matters, the appointment of administrators and guardians, the settlement of the accounts of executors, administrators (1) and guardians, and such jurisdiction in habeas corpus, the issuing of marriage licenses, and for the sale of land by executors, administrators and guardians, and such other jurisdiction, in any county or counties, (2) as may be provided by law.

(1) There exists no constitutional impediment to investing the Probate Court with power, upon final settlement with the administrator of an intestate estate, to order distribution of the money remaining in his hands to the persons entitled thereto. *McLaughlin v. McLaughlin*, 4 Ohio St., 508.

(2) This jurisdiction may be extended to all the counties in the state by a general enactment. "The words, 'in any county or counties,' were probably used rather as enabling than restrictive language, and were designed to permit the General Assembly—notwithstanding the provisions of the twenty-sixth section of the second article, requiring all laws of a general nature to have a uniform operation throughout the state—in its discretion, to confer upon the Probate Court more extended powers in some counties than in others. Upon the opposite construction, a power to confer the jurisdiction in one county by a local enactment, is a power to confer it in all the counties in the same manner; which brings us to the absurd conclusion that the Legislature is competent to do by ninety laws what it is incompetent to do by one." *Gieny v. C. W. & Z. R. R. Co.*, 4 Ohio St., 308-320—Ranney, J.

"A jurisdiction may be given to the Probate Court in one county which is not conferred in another; but this express exception relates only to the extent of the jurisdiction of the Probate Court. The whole object of the section is to define the limits of its jurisdiction; it treats of nothing else, and does not once name the Courts of Common Pleas. Nor does it follow as a necessary conclusion that because the jurisdiction of the Probate Court may be more extensive in one county than in another, the jurisdiction of the Courts of Common Pleas must also differ in extent. The latter may be uniform and the former not. The Probate Court may, in some counties, possess a jurisdiction concurrent with the Common Pleas, which is denied to it in others." *Kelley v. State*, 6 Ohio St., 269-273—Scott, J.; and see *Art. II, § 26, note 1.*

1 Debates, 431, 551, 591, 593, 602, 609-612, 616, 622, 623, 625, 654, 669-695; 2 Debates, 357-371, 379, 384, 390, 396, 398-402, 483-485, 681-686, 695-698, 809, 836, 860, 870.

Justices of the peace.

SEC. 9. A competent number of justices of the peace shall be elected, by the electors, in each township of the several counties. Their term of office shall be three years, and their powers and duties shall be regulated by law. (*See Const. 1802, Art. III, § 11.*)

1 Debates, 431, 551, 593, 654; 2 Debates, 370, 384, 396, 401, 402, 483-485, 685, 686, 695-698, 809, 836, 860, 870.

SEC. 10. All judges, other than those provided for in this constitution, shall be elected by the electors of the judicial district for which they may be created, but not for a longer term of office than five years.

Other judges.

1 Debates, 431, 551, 676-707, 710-719; 2 Debates, 359, 360, 396, 402, 484, 685, 686, 695-698, 809, 836, 860, 870.

SEC. 11. The judges of the supreme court shall, immediately after the first election under this constitution, be classified by lot, so that one shall hold for the term of one year, one for two years, one for three years, one for four years, and one for five years; and, at all subsequent elections, the term of each of said judges shall be for five years.

Classification of supreme judges.

1 Debates, 431, 551, 719, 720; 2 Debates, 131-133, 360, 396, 400, 402, 483-485, 684-686, 695-698, 809, 836, 860, 870.

SEC. 12. The judges of the courts of common pleas shall, while in office, reside in the district for which they are elected, and their term of office shall be for five years. (*See Const. 1802, Art. III, §§ 3, 8.*)

Common pleas judges, their term of office and residence.

1 Debates, 431; 2 Debates, 133, 360, 396, 402, 483-485, 685, 686, 695-698, 809, 836, 860, 870.

SEC. 13. In case the office of any judge shall become vacant, before the expiration of the regular term for which he was elected, the vacancy shall be filled by appointment by the governor, until a successor is elected and qualified; and such successor shall be elected for the unexpired term, at the first annual election that occurs more than thirty days after the vacancy shall have happened.

Vacancies, how filled.

Where a vacancy occurred in the office of Probate Judge of Pickaway county more than thirty days before the next annual election, at which a probate judge for the constitutional term was also to be chosen, and the sheriff, in his proclamation giving notice of said election, failed to give notice that a probate judge would be chosen to fill the unexpired term, but merely gave notice that one probate judge for said county would be chosen, without more, and the voters cast their ballots for probate judge without indicating whether for the unexpired term or for the constitutional term—held: 1. That under the Constitution and laws of this state, such election of probate judge was not void for uncertainty. 2. That such election did not embrace both the offices which should have been voted for at that time. 3. That the judge thus elected must, by reasonable intendment, be held to have been elected for the full, and not for the unexpired term. *State v. Cogswell*, 8 Ohio St., 620.

The term of office of a judge elected to fill a vacancy is limited to the unexpired portion of the regular term in which such vacancy occurs; and a commission assuming to confer official authority for a longer term is, as to the excess, inoperative. *Scarff v. Foster*, 15 Ohio St., 137.

Where a vacancy is about to occur in the office of probate judge, by reason of the expiration of the term of an incumbent of that office, and the sheriff, in pursuance of the statute, in due time prior to the day for the regular election, publishes his proclamation, giving notice of such election, and enumerating therein all the state and county

offices to be filled at such election, except the office of probate judge, in respect to which the proclamation is silent; and, by reason of such misfeasance of the sheriff, the great body of the electors of such county are misled, and have no notice, either official or in fact, of an election to fill the office of probate judge; but, nevertheless, a small number of the electors of the county, less than one-fourth of the whole number of voters at that election, cast their votes for a single candidate, and no votes are cast for any other, such attempted election is irregular and invalid. *Foster v. Scarff*, 15 Ohio St., 532.

"From this section the implication is manifest, that the Constitution intends that in respect to elections to fill vacancies in the office of judge, at least thirty days' time for notice of the election shall be afforded. . . . We do not intend to hold, nor are we of opinion, that the notice by proclamation, as prescribed by law, is *per se*, and in all supposable cases, necessary to the validity of an election. If such were the law, it would be in the power of a ministerial officer, by his misfeasance, always to prevent a legal election. We have no doubt that where an election is held in other respects as prescribed by law, and notice in fact of the election is brought home to the great body of the electors, though derived through means other than the proclamation which the law prescribes, such election would be valid. But where, as in this case, there was no notice, either by official proclamation or in fact, and it is obvious that the great body of the electors were misled, for want of the official proclamation, its absence becomes such an irregularity as to prevent an actual choice by the electors, prevents an actual election, in the primary sense of that word, and renders invalid any semblance of an election, which may have been attempted by a few, and which must operate, if it be allowed to operate at all, as a surprise and fraud upon the rights of the many." *Ib.*, 535, 537—Brinkerhoff, C. J.

1 Debates, 431, 551; 2 Debates, 333, 360, 396, 400, 402, 483-485, 685, 686, 695-698, 809, 836, 860, 870.

Compensation of judges.

Ineligible to other offices.

SEC. 14. The judges of the supreme court, and of the court of common pleas, shall, at stated times, receive, for their services, such compensation as may be provided by law, which shall not be diminished, or increased during their term of office; but they shall receive no fees or perquisites, nor hold any other office of profit or trust, under the authority of this state, or the United States. (1) All votes for either of them, for any elective office, except a judicial office, under the authority of this state, given by the general assembly, or the people, shall be void. (*See Const.* 1802, *Art. III*, § 8.)

(1) The act of May 4, 1869 (66 O. L., 80), "relating to cities of the first class having a population exceeding one hundred and fifty thousand inhabitants," is not opposed to this section. The duty it imposes upon the court—the appointment of trustees of a railroad to be constructed by a municipal corporation—is of a judicial character. Neither does it create a new office, in imposing this duty on the judges of the

court, but simply annexes a new duty to an existing office. *Walker v. Cincinnati*, 21 Ohio St., 14.

So also the authority of determining the number and compensation of assistants to various county officers, conferred by the act of April 6, 1870 (67 O. L., 36), and the supplemental act of April 12, 1871 (68 O. L., 58), on the judges of the Court of Common Pleas, does not invest them with a new office, but merely authorizes them to perform additional duties as judges. *State v. Judges*, *Ib.* 1.

1 Debates, 431, 551; 2 Debates, 133, 134, 360-364, 396, 397, 400, 402, 483-485, 685, 686, 695-698, 809, 836, 837, 860, 870.

SEC. 15. The general assembly may increase, or diminish, the number of the judges of the supreme court, the number of the districts of the court of common pleas, the number of judges in any district, change the districts, or the subdivisions thereof, or establish other courts, (1) whenever two-thirds of the members elected to each house shall concur therein; but no such change, addition, or diminution, shall vacate the office of any judge. (2.)

Number of judges may be increased or diminished, districts altered, and other courts established.

(1) "It is perfectly clear that, upon the creation of any additional court by the Legislature, the judicial officer must be elected, as such, by the electors of the district for which such court is created (Art. IV, § 10); and it is not within the competency of the Legislature to clothe with judicial power any officer or person not elected as a judge." *Logan Branch Bank, ex parte*, 1 Ohio St., 432-434—Corwin, J.

The act of May 3, 1852, "to provide for the organization of cities and incorporated villages" (S. & C., 1493), conferring on mayors of cities of the second class "all the jurisdiction and powers of a justice of the peace in all matters civil or criminal," provided the same was passed by a vote of two-thirds of all the members elected to each House of the General Assembly, is not in contravention of this Constitution. *Steamboat Northern Indiana v. Milliken*, 7 Ohio St., 383.

Such concurrence will, in absence of all showing to the contrary, be presumed. *Ib.*; *Miller v. State*, 3 Ohio St., 475.

(2) That is, the office of any judge of a court established by this Constitution. But the Constitution has not limited the power of the General Assembly to abolish courts created by the Legislature, nor its power to vacate the office of judges of such courts. *State v. Wright*, 7 Ohio State, 333.

1 Debates, 431; 2 Debates, 396, 400, 402, 484, 485, 684-686, 695-698, 809, 837, 860, 870.

SEC. 16. There shall be elected in each county, by the electors thereof, one clerk of the court of common pleas, who shall hold his office for the term of three years, and until his successor shall be elected and qualified. He shall, by virtue of his office, be clerk of all other courts of record held therein; but, the general assembly may provide, by law, for the election of a clerk, with a like term of office, for each or any other of the courts of record, and may authorize the judge of the probate court to perform the duties

Clerks of courts.

of clerk for his court, under such regulations as may be directed by law. Clerks of courts shall be removable for such cause and in such manner as shall be prescribed by law. (*Sec Const. 1802, Art. III, § 9.*)

The period for the termination of the office of Clerk of the Court of Common Pleas, held by simple appointment to fill a vacancy, is not fixed by the Constitution, but subject to legislative enactment. (*Art. II, § 20.*) *State v. Neibling*, 6 Ohio St., 40.

In case of a vacancy in the office of Clerk of the Court of Common Pleas, the successor, elected by the electors of the county, is elected for the full term of three years, which will commence from and after the day of his election. *Ib.*

1 Debates, 431, 551; 2 Debates, 134-139, 364, 396, 397, 400, 402, 483-485, 685, 686, 695-698, 809, 810, 837, 860, 870.

Judges  
removable.

SEC. 17. Judges may be removed from office, by concurrent resolution of both houses of the general assembly, if two-thirds of the members, elected to each house, concur therein; but, no such removal shall be made, except upon complaint, the substance of which shall be entered on the journal, nor, until the party charged shall have had notice thereof, and an opportunity to be heard.

1 Debates, 431; 2 Debates, 397, 398, 400, 402, 483-485, 685, 686, 695-698, 810, 837, 860, 870.

Powers and  
jurisdiction.

SEC. 18. The several judges of the supreme court, of the common pleas, and of such other courts as may be created, shall, respectively, have and exercise such power and jurisdiction, at chambers, or otherwise, as may be directed by law.

"Jurisdiction at chambers is incidental to, and grows out of, the jurisdiction of the court itself. It is the power to hear and determine, out of court, such questions arising between the parties to a controversy, as might well be determined by the court itself, but which the Legislature has seen fit to intrust to the judgment of a single judge, out of court, without requiring them to be brought before the court in actual session. It follows, that the jurisdiction of a judge at chambers cannot go beyond the jurisdiction of the court to which he belongs, or extend to matters with which his court has nothing to do; and the Constitution, in granting such jurisdiction at chambers to the judges of the several courts of the state, as may be directed by law, is to be understood as limiting the jurisdiction of each to such subject matters as are within the jurisdiction of his proper court, and to which it is, *ex vi termini*, limited." *P. Ft. W. & C. Ry. Co. v. Hurd*, 17 Ohio St., 144-146, 147—Scott, J.

1 Debates, 431; 2 Debates, 402, 484, 685, 686, 695-698, 810, 837, 860, 870.

Courts of  
conciliation.

SEC. 19. The general assembly may establish courts of conciliation, and prescribe their powers and duties; but such courts shall not render final judgment in any case, ex-

cept upon submission, by the parties, of the matter in dispute, and their agreement to abide such judgment.

2 Debates, 390, 391, 402, 483-485, 685, 686, 695-698, 794, 805, 833, 837, 860, 870.

SEC. 20. The style of all process shall be, "The State of Ohio"; all prosecutions shall be carried on in the name, and by the authority, of the state of Ohio; and all indictments shall conclude, "against the peace and dignity of the state of Ohio." (*See Const. 1802, Art. III, § 12.*)

Style of process, prosecution and indictment.

Where it appears from the caption of an indictment that the prosecution is carried on "in the name and by the authority of the state of Ohio," it need not be again averred in the successive counts of the indictment; and if the indictment contains more than one count, and a *nolle prosequi* is entered as to the first, the remaining counts of the indictment will not thereby be rendered defective for want of that averment, where it is contained in the caption. *Davis v. State*, 19 Ohio St., 270.

2 Debates, 398, 402, 484, 485, 685, 686, 695-698, 810, 837, 860, 870.

## ARTICLE V.

### ELECTIVE FRANCHISE.

SECTION 1. Every white(1) male citizen of the United States, of the age of twenty-one years, who shall have been a resident of the state one year next preceding the election, and of the county, township, or ward, in which he resides, such time as may be provided by law, shall have the qualifications of an elector,(2) and be entitled to vote at all elections.(3) (*See Const. 1802, Art. IV, §§ 1, 5.*)

Who may vote.

(1) For a discussion and definition of the word "white," as here used, see *Anderson v. Millikin*, 9 Ohio St., 568; *Monroe v. Collins*, 17 Ohio St., 665; *Fries v. Ankeny*, 11 Ohio, 372; *Thacker v. Hawk*, *Ib.*, 376; *Gray v. State*, 2 Ohio St., 233; *Lane v. Baker*, 12 Ohio, 237; *Williams v. School Directors*, *Wright's Rep.*, 178.

This restriction on the elective franchise is now abrogated by the fourteenth and fifteenth articles of amendments to the Federal Constitution. Article XIV, so far as it relates to this subject, is as follows: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside." The fifteenth article provides that, 1. "The right of the citizens of the United States to vote shall not be denied or abridged by the United States or by any state, on account of race, color, or previous condition of servitude. 2. The Congress shall have power to enforce this article by appropriate legislation." Such legislation has been enacted by Congress.

(2) The Legislature has no right, directly or indirectly, to deny or abridge the constitutional right of citizens to vote, or unnecessarily to impede its exercise; and laws passed professedly to regulate its exercise or prevent its abuse, must be reasonable, uniform and impartial. *Monroe v. Collins*, 17 Ohio St., 665.

(3) The act of April 13, 1863 (60 O. L., 80), "to enable qualified voters of this state, in the military service of this state or of the United States, to exercise the right of suffrage," was intended to enable qualified voters of the state, in the military service, to vote, in accordance with its provisions, as well without as within the territorial limits of this state. The act is not clearly in conflict with any constitutional provision, and is, therefore, to be regarded as a constitutional and valid enactment. It does not purport to have such extra territorial operation and effect as would place its enactments beyond the legitimate sphere of the legislative power of the state, and so render them invalid. *Lehman v. McBride*, 15 Ohio St., 573.

"The general principle which pervades the Constitution on the subject of elections, is that no one shall be allowed to participate in the election of officers whose jurisdiction will not extend over him, or territorially include the place of his residence; but that the electors of each district or civil subdivision of the state shall have the right to select their own official representatives or public functionaries. Under a proper construction of the Constitution, persons having the qualifications of electors may justly claim 'a right to vote at all elections' of officers of the state, and of such other civil officers as, by the provisions of the Constitution and laws, are to be chosen by the electors of the county, township, ward or district in which such persons respectively reside. The place of holding an election is not the criterion, and furnishes no essential part of the test, which limits the elector's right to vote 'at all elections.' But a right to vote at all elections does not import a right to vote at more than one of the places prescribed by law for holding an election, any more than it imports a right to vote more than once at the same place." *Ib.*, 598—Scott, J.

"We find nothing in this section which refers, in the slightest degree, even by implication, to the place of holding elections. Had it been the intention of the framers of our present Constitution to fix or limit, by this section, the place at which the elective franchise should be exercised by the voters respectively, it is quite remarkable that no attempt should have been made to do so, in express terms; that such an important limitation of legislative power should have been left to be gathered from what is not said, or to be inferred from a declaration of the elector's 'right to vote at all elections.' And it is the more remarkable because, in the corresponding section of the Constitution of 1802 (Art. IV, § 1), which defines the qualifications of electors, there was a clause of express limitation, in the following terms: 'No person shall be entitled to vote except in the county or district in which he shall actually reside at the time of the election.' Now, the fact that this clause was wholly excluded from the present Constitution, and no express limitation as to the place of voting was inserted in its stead, would seem to be quite significant. It is in this part of the Constitution, which treats solely of the elective franchise, that we would naturally expect to find, if anywhere, a restriction limiting the place of its exercise. Here such restriction was placed, in express terms, by the Constitution of 1802, and from this, its appropriate place, it was stricken out in the Constitution of 1851, and inserted in no other place. We think it may be very fairly inferred, that whilst the Constitution defines the qualifi-



cations of electors, and prescribes by what portion of them all officers shall be chosen; it was intended to leave all further details, whether as to the place of holding elections, or the mode in which they should be conducted, to the wisdom of the Legislature, to be provided for, and modified, from time to time, as the ever-varying circumstances of the unknown future might seem to require." *Ib.*

1 Debates, 693; 2 Debates, 8-10, 352, 550-555, 635-640, 811, 838, 860, 870.

SEC. 2. All elections shall be by ballot. (*See Const.* 1802, Art. IV, § 2.) By ballot.

1 Debates, 693; 2 Debates, 10, 811, 838, 860, 870.

SEC. 3. Electors, during their attendance at elections, and in going to, and returning therefrom, shall be privileged from arrest, in all cases, except treason, felony, and breach of the peace. (*See Const.* 1802, Art. IV, § 3.) Voters, when privileged from arrest.

1 Debates, 693; 2 Debates, 10, 811, 838, 860, 870.

SEC. 4. The general assembly shall have power to exclude from the privilege of voting, or of being eligible to office, any person convicted of bribery, perjury, or other infamous crime. (*See Const.* 1802, Art. IV, § 4.) Forfeiture of elective franchise.

1 Debates, 693; 2 Debates, 10, 352, 811, 838, 861, 870.

SEC. 5. No person in the military, naval, or marine service of the United States, shall, by being stationed in any garrison, or military, or naval station, within the state, be considered a resident of this state. Persons not considered residents of the state.

Inmates of an asylum provided by the United States for disabled volunteer soldiers, resident within the territory so used, being within the exclusive jurisdiction of a government other than that of the state within whose boundaries such asylum or territory may be situate, are not residents of such state within the meaning of this section of the Constitution; and where the Constitution of such state confers the elective franchise upon residents thereof alone, the inmates of such asylum, resident within such territory, are not entitled to vote at any election held within and under the laws of such state. *Sinks v. Reese*, 19 Ohio St., 306.

But persons residing in said asylum at the time of an election, after the jurisdiction thereover had been restored to the state, and for the year next preceding the election, are to be regarded as residents of the state, and for the entire year, notwithstanding the fact that part of the year transpired while the jurisdiction was in the United States. *Renner v. Bennett*, 21 Ohio St., 431.

1 Debates, 693; 2 Debates, 10, 811, 838, 861, 870.

SEC. 6. No idiot, or insane person, shall be entitled to the privilege of an elector. Idiots or insane persons.

The vote of a man otherwise qualified, who is neither a lunatic nor an idiot, but whose faculties are simply greatly enfeebled by age, ought not to be rejected. *Sinks v. Reese*, 19 Ohio St., 307.

1 Debates, 693; 2 Debates, 10, 811, 838, 861, 870.

## ARTICLE VI.

## EDUCATION.

Funds for  
educational  
and religious  
purposes.

SEC. 1. The principal of all funds, arising from the sale, or other disposition of lands, or other property, granted or entrusted to this state for educational and religious purposes, shall forever be preserved inviolate, and undiminished; and, the income arising therefrom, shall be faithfully applied to the specific objects of the original grants, or appropriations.

1 Debates, 693, 694; 2 Debates, 10, 11, 18, 698, 711, 821, 843, 861, 870.

School  
funds.

SEC. 2. The general assembly shall make such provisions, by taxation, or otherwise, as, with the income arising from the school trust fund, will secure a thorough and efficient system of common schools throughout the state; (1) but, no religious or other sect, or sects, shall ever have any exclusive right to, or control of, any part of the school funds of this state.

1 Debates, 693, 694; 2 Debates, 11-20, 698-700, 711, 821, 843, 861, 870.

(1) The statute of March 14, 1853, "to provide for the reorganization, supervision and maintenance of common schools," is a law of classification, and not of exclusion, providing for the education of all youths within the prescribed ages; and the words "white" and "colored," as used in said act, are used in their popular and ordinary signification. Children of three-eighths African blood, generally treated and regarded as colored children by the community where they reside, are not, as of right, entitled to admission into the common schools set apart, under said act, for the instruction of white youths. *Van Camp v. Board of Education of Logan*, 9 Ohio St., 406; *State v. McCann*, 21 Ohio St., 198.

*See Art. I, § 7, note 2; Const. 1802, Art. VIII, § 25, note.*

## ARTICLE VII.

## PUBLIC INSTITUTIONS.

Insane,  
blind, and  
deaf and  
dumb.

SEC. 1. Institutions for the benefit of the insane, blind, and deaf and dumb, shall always be fostered and supported by the state; and be subject to such regulations as may be prescribed by the general assembly.

1 Debates, 365, 539, 542, 543; 2 Debates, 340, 349, 700, 821, 843, 861, 870.

Directors  
of peniten-  
tiary, trus-  
tees of be-  
nevolent  
and other  
state institu-  
tions, how  
appointed.

SEC. 2. The directors of the penitentiary shall be appointed or elected in such manner as the general assembly may direct; and the trustees of the benevolent, and other state institutions, now elected by the general assembly, and of such other state institutions as may be hereafter created, shall be appointed by the governor, by and with the advice and consent of the senate; and upon all nominations made by the governor, the question shall be taken by yeas and nays, and entered upon the journals of the senate.

"The first clause of this section is in no way inconsistent, or in conflict, with the provisions of the twenty-seventh section of the second article, but is in entire harmony with it. It in no way qualifies or enlarges the exceptions to the general prohibition of any appointing power by the General Assembly therein contained, but leaves that prohibition to operate, with full force and effect. . . . The clause of Art. VII, § 2, that 'the directors of the penitentiary shall be appointed or elected in such manner as the General Assembly may direct,' and that of Art. II, § 27, that 'the election and appointment of all officers, and the filling of all vacancies not otherwise provided for by this Constitution, or the Constitution of the United States, shall be made in such manner as may be directed by law,' are equivalent to each other. When the Legislature 'directs,' it directs by law. Its appropriate voice is the voice of law. The prohibition attached, by way of proviso, expressly to the one, applies equally to both, and is no more in conflict with the one than with the other." *State v. Kennon*, 7 Ohio St., 546-561, 562—Brinkerhoff, J. And see *Art. II, § 27, Note 3*.

1 Debates, 365, 539-542, 549; 2 Debates, 340-343, 349, 700, 821, 843, 861, 870.

SEC. 3. The governor shall have power to fill all vacancies that may occur in the offices aforesaid, until the next session of the general assembly, and, until a successor to his appointee shall be confirmed and qualified.

Vacancies,  
how filled.

1 Debates, 549; 2 Debates, 341, 349, 700, 821, 843, 861, 870.

## ARTICLE VIII.

### PUBLIC DEBT AND PUBLIC WORKS.

SECTION 1. The state may contract debts, to supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for; but the aggregate amount of such debts, direct and contingent, whether contracted by virtue of one or more acts of the general assembly, or at different periods of time, shall never exceed seven hundred and fifty thousand dollars; and the money, arising from the creation of such debts, shall be applied to the purpose for which it was obtained, or to repay the debts so contracted, and to no other purpose whatever.

Public debt.

See *Art. VIII, § 3, note*.

1 Debates, 292, 466-472; 2 Debates, 313, 314, 362, 363, 392, 424-426, 810, 837, 861, 870.

SEC. 2. In addition to the above limited power, the state may contract debts to repel invasion, suppress insurrection, defend the state in war, or to redeem the present outstanding indebtedness of the state; but the money, arising from the contracting of such debts, shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever; and all debts, incurred to redeem the present outstanding indebtedness of the state, shall be so contracted as to be payable by the sinking fund, hereinafter provided for, as the same shall accumulate.

Additional  
what pur-  
poses.

See *Art. VIII, § 3, Note; Art. II, § 28, note 1*.

1 Debates, 292, 466, 472; 2 Debates, 312-314, 426, 810, 837, 861, 870.

The state to  
create no  
other debt.

SEC. 3. Except the debts above specified in sections one and two of this article, no debt whatever shall hereafter be created by, or on behalf of the state.

The natural and obvious meaning of the first three sections of this article applies their limitations to the state alone, and not to her subdivisions. *Cass v. Dillon*, 2 Ohio St., 608; *Walker v. Cincinnati*, 21 Ohio St., 14-52.

The Board of Public Works made contracts on behalf of the state, stipulating to pay yearly, for the period of five years, for materials and repairs of the canals of the state, an amount in the aggregate of \$1,375,000. Held: 1. That, except in certain specified cases, no debt of any kind can be created on behalf of the state. 2. That no officers of the state can enter into any contract, except in cases specified in the Constitution, whereby the General Assembly will, two years after, be bound to make appropriations either for a particular object or a fixed amount; the power and the discretion, intact, to make appropriations, in general, devolving on each biennial General Assembly, and for the period of two years. 3. The contracts of the Board of Public Works creating a present obligation to pay for the period of five years a certain amount, do not come within said constitutional exceptions, and are in contravention of the provisions of Art. VIII, § 3, and Art. II, § 2. *State v. Medberry*, 7 Ohio St., 522.

1 Debates, 292, 466, 472; 2 Debates, 313, 314, 426, 810, 837, 861, 870.

Credit of  
state.

The state  
shall not be-  
come joint  
owner or  
stockholder.

SEC. 4. The credit of the state shall not, in any manner, be given or loaned to, or in aid of, any individual association or corporation whatever; nor shall the state ever hereafter become a joint owner, or stockholder, in any company or association in this state, or elsewhere, formed for any purpose whatever.

It was competent for the Legislature, under the Constitution of 1802, to construct works of internal improvement, on behalf of the state, or to aid in their construction by subscribing to the capital stock of corporations created for that purpose, and to levy taxes to raise the means; and, by an exercise of the same power, to authorize a county or township to subscribe to a work of that character running through or into such county or township, and to levy a tax to pay the subscription. *C. W. & Z. R. R. Co. v. Com. of Clinton Co.*, 1 Ohio St., 77; *S. & I. R. R. Co. v. North Tp.*, *Ib.*, 105; *Loomis v. Spencer*, *Ib.*, 153; *Cass v. Dillon*, 2 Ohio St., 608; *Thompson v. Kelley*, *Ib.*, 647; *State v. Com. of Clinton Co.*, 6 Ohio St., 280; *State v. Van Horne*, 7 Ohio St., 327; *State v. Union Tp.*, 8 Ohio St., 394; *Paris Tp. v. Cherry*, *Ib.*, 564; *Treadwell v. Com. of Hancock Co.*, 11 Ohio St., 183; *State v. Com. of Hancock Co.*, 12 Ohio St., 596; *Goshen Tp. v. Shoemaker*, *Ib.*, 624; *Com. of Knox Co. v. Nichols*, 14 Ohio St., 260; *Fosdick v. Perrysburg*, *Ib.*, 472; *Shoemaker v. Goshen Tp.*, *Ib.*, 569; *Walker v. Cincinnati*, 21 Ohio St., 14-43.

1 Debates, 292, 466, 472; 2 Debates, 313, 314, 426, 427, 810, 837, 861, 870.

SEC. 5. The state shall never assume the debts of any county, city, town, or township, or of any corporation whatever, unless such debt shall have been created to repel invasion, suppress insurrection, or defend the state in war.

No assumption of debts by the state.

"The clear implications of this section are, that counties, cities, towns and townships may create debts to repel invasion, suppress insurrection, or defend the state in war, which the state may assume; and may also create debts for other purposes, which the state is forbidden to assume." *Walker v. Cincinnati*, 21 Ohio St., 14-52—Scott, C. J.

1 Debates, 292, 467, 472, 538; 2 Debates, 295, 313, 314, 427, 810, 837, 861, 870.

SEC. 6. The general assembly shall never authorize any county, city, town, or township, by vote of its citizens, or otherwise, to become a stockholder in any joint stock company, corporation, or association whatever; or to raise money for, or loan its credit to, or in aid of, any such company, corporation, or association.

Counties, cities, towns, or townships, not authorized to become stockholders, etc.

What the General Assembly is thus prohibited from doing directly, it has no power to do indirectly. *Taylor v. Com. of Knox Co.*, 22 Ohio St.

Where public credit or money is furnished by any of the subdivisions of the state named, to be used in part construction of the work which, under the statute authorizing its construction, must be completed, if completed at all, by other parties out of their own means, who are to own or have the municipal control and management of the work when completed, the public money or credit thus used can only be regarded as furnished for or in aid of such parties *Ib.*

The act of April 23, 1872, to authorize counties, townships and the municipalities therein named to build railroads (69 O. L., 84), authorizes the raising of money by taxation, which is equally applicable to the unlawful purpose of aiding railroad companies and others engaged in building and operating railroads as it is to any lawful purpose, and gives to the officers intrusted with the control and application of the money thus raised no means or power of discrimination as to the lawfulness or unlawfulness of the work or purpose to which it is to be applied, and thus is in contravention of section six, article eight, of the Constitution, and therefore void. *Ib.*

"The mischief which this section interdicts is a business partnership between a municipality or subdivision of the state, and individuals or private corporations or associations. It forbids the union of public and private capital or credit in any enterprise whatever. In no project originated by individuals, whether associated or otherwise, with a view to gain, are the municipal bodies named permitted to participate in such manner as to incur pecuniary expense or liability. They may neither become stockholders nor furnish money or credit for the benefit of the parties interested therein. Though joint stock companies, corporations and associations only are named, we do not doubt that the reason of prohibition would render it applicable to the case of a single individual. The evil would be the same, whether the public suffered

from the cupidity of a single person, or from that of several persons associated together. As this alliance between public and private interests is clearly prohibited in respect to all enterprises, of whatever kind, if we hold that these municipal bodies cannot do on their own account what they are forbidden to do on the joint account of themselves and private partners, it follows that they are powerless to make any improvement, however necessary, with their own means, and on their own sole account. We may be very sure that a purpose so unreasonable was never entertained by the framers of the Constitution." *Walker v. Cincinnati*, 21 Ohio St., 14-54, 55—Scott, C. J.

The act of May 4, 1869, "relating to cities of the first class having a population exceeding one hundred and fifty thousand inhabitants" (66 O. L., 80), authorizing such cities to construct a railroad terminating in and essential to the interests of themselves, and to borrow, as a fund for that purpose, a sum of money not exceeding ten millions of dollars, violates neither the express nor implied prohibitions of this section. *Walker v. Cincinnati*, 21 Ohio St., 14, affirming 1 Cin. Sup. C. Rep., 121.

The act of March 29, 1867 (S. & S., 671), "to authorize the county commissioners to construct roads on petition of a majority of resident land-owners along and adjacent to the line of said road," etc., does not violate this section. *State v. Com. of Warren Co.*, 17 Ohio St., 558.

This section plainly refers to future legislation alone, and the acts it prohibits are not subscriptions under laws existing at the time of the adoption of the new Constitution, but the making of any more such laws. *Cass v. Dillon*, 2 Ohio St., 608; *State v. Trustees of Union Township*, 8 Ohio St., 394; *Com. of Knox Co. v. Nichols*, 14 Ohio St., 260; *State v. Perrysburg*, 14 Ohio St., 472; *Thompson v. Kelly*, 2 Ohio St., 647; and see Art. VIII, § 4, Note.

1 Debates, 292, 467, 472, 538; 2 Debates, 300-314, 427, 810, 837, 861, 870.

Sinking  
fund.

SEC. 7. The faith of the state being pledged for the payment of the public debt, in order to provide therefor, there shall be created a sinking fund, which shall be sufficient to pay the accruing interest on such debt, and, annually, to reduce the principal thereof, by a sum not less than one hundred thousand dollars, increased yearly, and each and every year, by compounding, at the rate of six per cent. per annum. The said sinking fund shall consist, of the net annual income of the public works and stocks owned by the state, of any other funds or resources that are, or may be, provided by law, and of such further sum, to be raised by taxation, as may be required for the purposes aforesaid.

1 Debates, 292, 467, 472-474, 476-492, 495-512, 514-524; 2 Debates, 295-299, 312-314, 427, 810, 837, 861, 870.

The commis-  
sioners of  
the sinking  
fund.

SEC. 8. The auditor of state, secretary of state, and attorney general, are hereby created a board of commissioners, to be styled, "The Commissioners of the Sinking Fund."

1 Debates, 292, 467, 524; 2 Debates, 313, 314, 427, 810, 837, 861, 870.

SEC. 9. The commissioners of the sinking fund shall, immediately preceding each regular session of the general assembly, make an estimate of the probable amount of the fund, provided for in the seventh section of this article, from all sources except from taxation, and report the same, together with all their proceedings relative to said fund and the public debt, to the governor, who shall transmit the same with his regular message, to the general assembly; and the general assembly shall make all necessary provision for raising and disbursing said sinking fund, in pursuance of the provisions of this article.

Their biennial report.

1 Debates, 292, 467, 524-537; 2 Debates, 299, 313, 314, 427, 810, 837, 861, 870.

SEC. 10. It shall be the duty of said commissioners faithfully to apply said fund, together with all moneys that may be, by the general assembly, appropriated to that object, to the payment of the interest, as it becomes due, and the redemption of the principal of the public debt of the state, excepting only the school and trust funds held by the state.

Application of sinking fund.

1 Debates, 292, 467, 537, 538; 2 Debates, 313, 314, 427, 810, 837, 861, 870.

SEC. 11. The said commissioners shall, semi-annually, make a full and detailed report of their proceedings to the governor, who shall, immediately, cause the same to be published, and shall also communicate the same to the general assembly, forthwith, if it be in session, and if not, then at its first session after such report shall be made.

Semi-annual report.

1 Debates, 292, 467, 537, 538; 2 Debates, 313, 314, 427, 810, 837, 838, 861, 870.

SEC. 12. So long as this state shall have public works which require superintendence, there shall be a board of public works, to consist of three members, who shall be elected by the people, at the first general election after the adoption of this constitution, one for the term of one year, one for the term of two years, and one for the term of three years; and one member of said board shall be elected annually thereafter, who shall hold his office for three years.

Board of public works.

1 Debates, 292, 467, 537, 538; 2 Debates, 300, 362, 427, 810, 838, 861, 870.

SEC. 13. The powers and duties of said board of public works, and its several members, and their compensation, shall be such as now are, or may be prescribed by law.

Their powers, duties, and compensation.

No powers can be exercised by the board under laws existing when the Constitution took effect, unless such laws are consistent with the provisions of the Constitution. *State v. Medberry*, 7 Ohio St., 522. "The laws referred to are only such as are in harmony with the Constitution." *Ib.*, 544—Swan, J.; and see *Art. VIII*, § 3, *Note*.

1 Debates, 292, 467, 538; 2 Debates, 427, 810, 838, 861, 862, 870.

## ARTICLE IX.

## MILITIA.

Who shall  
perform mil-  
itary duty.

SEC. 1. All white (1) male citizens, residents of this state, being eighteen years of age, and under the age of forty five years, shall be enrolled in the militia, and perform military duty, in such manner, not incompatible with the constitution and laws of the United States, as may be prescribed by law. (2)

(1) *See Art. I, § 1, Note 1.*

(2) *See Art. XII, § 1, Note.*

1 Debates, 191, 449-458, 461-464; 2 Debates, 220, 346-352, 651, 687, 688, 695, 821, 843, 862, 870.

What offi-  
cers to be  
elected, and  
by whom.

SEC. 2. Majors general, brigadiers general, colonels, lieutenant colonels, majors, captains, and subalterns, shall be elected by the persons subject to military duty, in their respective districts. (*See Const. 1802, Art. V.*)

1 Debates, 191, 464-466; 2 Debates, 220, 346, 350, 651, 688, 695, 821, 843, 862, 870.

Same sub-  
ject.

SEC. 3. The governor shall appoint the adjutant general, quartermaster general, and such other staff officers, as may be provided for by law. Majors general, brigadiers general, colonels, or commandants of regiments, battalions, or squadrons, shall, severally, appoint their staff, and captains shall appoint their non-commissioned officers and musicians. (*See Const. 1802, Art. V.*)

1 Debates, 191, 465, 466; 2 Debates, 220, 346, 348, 350, 651, 688, 695, 821, 843, 862, 870.

Governor to  
commission  
officers, and  
have power  
to call forth  
the militia.

SEC. 4. The governor shall commission all officers of the line and staff, ranking as such; and shall have power to call forth the militia, to execute the laws of the state, to suppress insurrection, and repel invasion. (*See Const. 1802, Art. V.*)

"The faithful execution of the laws when enacted, expounded and applied by the courts to cases when necessary, is confided to the executive. The militia is an arm of the executive power. . . . Not a word is found in the Constitution giving countenance to the opinion sometimes expressed, and more frequently felt, that the militia, or military force, instead of being a means to be employed by the executive department in executing the important duty of executing the laws, are a distinct department, equal to either of the others, and independent of their control." *State v. Coulter, Wright's Rep.*, 421-424, 425.

2 Debates, 350, 651, 688, 695, 821, 843, 862, 870.

Public arms.

SEC. 5. The general assembly shall provide, by, law, for the protection and safe keeping of the public arms.

1 Debates, 191, 466; 2 Debates, 220, 346, 651, 688, 695, 821, 843, 862, 870.



# ARTICLE X.

## COUNTY AND TOWNSHIP ORGANIZATIONS.

SEC. 1. The general assembly shall provide, by law, for the election of such county and township officers as may be necessary. (*See Const. 1802, Art. VI, § 1, 3.*)

County and township officers.

The Constitution did not create the municipalities of the state, nor does it attempt to enumerate their powers. It recognizes them as things already in being, with powers that will continue to exist, so far as they are consistent with the organic law, until modified or repealed. *Cass v. Dillon*, 2 Ohio St., 608.

2 Debates, 565, 640-642, 644, 654, 810, 838, 862, 870.

SEC. 2. County officers shall be elected on the second Tuesday of October, until otherwise directed by law, by the qualified electors of each county, in such manner, and for such term, not exceeding three years, as may be provided by law. (*See Const. 1802, Art. 6, § 1.*)

County officers, when elected.

The power to fix the times of holding elections for county officers is vested by the Constitution in the Legislature, and when a time has been so fixed by that body, any election for such officers held at a different time is unauthorized and void. *State v. Dombaugh*, 20 Ohio St., 167.

2 Debates, 565, 640-644, 654, 810, 838, 862, 870.

SEC. 3. No person shall be eligible to the office of sheriff, or county treasurer, for more than four years, in any period of six years. (*See Const. 1802, Art. 6, § 1.*)

Eligibility of sheriff and treasurer.

2 Debates, 565, 643, 644, 654, 810, 838, 862, 870.

SEC. 4. Township officers shall be elected on the first Monday of April, annually, by the qualified electors of their respective townships, and shall hold their offices for one year, from the Monday next succeeding their election, and until their successors are qualified.

Township officers, when elected.

2 Debates, 565, 644, 654, 810, 825, 838, 862, 870.

SEC. 5. No money shall be drawn from any county or township treasury, except by authority of law.

County and township treasuries.

The board of county commissioners has no power, under the Constitution and laws of Ohio, to employ an attorney to prosecute criminal complaints before the examining magistrates of the county, except in cases in which the county, in its quasi corporate capacity, has a direct interest. Nor can the board of commissioners be compelled, by mandamus, to pay for such services out of the county treasury. *State v. Com. of Franklin Co.*, 21 Ohio St., 648.

2 Debates, 565, 644, 654, 810, 825, 838, 862, 870.

SEC. 6. Justices of the peace, and county and township officers, may be removed, in such manner and for such cause, as shall be prescribed by law.

What officers may be removed.

1 Debates, 298; 2 Debates, 151, 318, 566, 633, 664, 810, 838, 862, 870.

Local taxation.

SEC. 7. The commissioners of counties, the trustees of townships, and similar boards, shall have such power of local taxation, for police purposes, as may be prescribed by law.

The construction of drains by townships, in cases where the public health, convenience or welfare demands it, is within the meaning of "police purposes." *Sessions v. Crunkilton*, 20 Ohio St., 349.

2 Debates, 565, 644, 747, 748, 775, 794, 805, 833, 838, 862, 870.

## ARTICLE XI.

### APPORTIONMENT.

Apportionment for members of the general assembly.

SECTION 1. The apportionment of this state for members of the general assembly, shall be made every ten years, after the year one thousand eight hundred and fifty-one, in the following manner: The whole population of the state, as ascertained by the federal census, or in such other mode as the general assembly may direct, shall be divided by the number "one hundred," and the quotient shall be the ratio of representation in the house of representatives, for ten years next succeeding such apportionment.

Ratio of representation in house.

"The apportionment of the state must be regarded as made by the Convention, and none the less so because the approval of the people was made necessary to its ultimate effect. They but ratified and approved an act already done by their representatives in convention, and were not, in any correct sense, the authors of the act itself." *State v. Dudley*, 1 Ohio St., 437-442—Ranney, J.

"The Constitution apportions political power amongst the inhabitants of the state, as nearly equally as possible in proportion to numbers, without any regard whatever to property, or, indeed, to any other circumstance. Inhabitants alone are represented; a given number in one place exercise the same political power, as a like number in any other locality. Some departure from the absolute equality of numbers is allowed in favor of the inhabitants of small counties, in the constitution of the House of Representatives; but this in no wise changes the basis of representation from population to territory or property." *Id.*

1 Debates, 460; 2 Debates, 5, 6, 708, 748, 767, 781, 811-813, 845, 846, 862, 870.

Same subject.

SEC. 2. Every county having a population equal to one-half of said ratio, shall be entitled to one representative; every county, containing said ratio, and three-fourths over, shall be entitled to two representatives; every county, containing three times said ratio, shall be entitled to three representatives; and so on, requiring after the first two, an entire ratio for each additional representative.

1 Debates, 460; 2 Debates, 6, 708, 748-751, 782, 846, 862, 870.

SEC. 3. When any county shall have a fraction above the ratio, so large, that being multiplied by five, the result will be equal to one or more ratios, additional representatives shall be apportioned for such ratios, among the several sessions of the decennial period, in the following manner: If there be only one ratio, a representative shall be allotted to the fifth session of the decennial period; if there are two ratios, a representative shall be allotted to the fourth and third sessions, respectively; if three, to the third, second, and first sessions, respectively; if four, to the fourth, third, second, and first sessions, respectively.

Same  
subject.

1 Debates, 460; 2 Debates, 6, 708, 751-753, 756-766, 781, 782, 820, 846, 862, 870.

SEC. 4. Any county, forming with another county or counties, a representative district, during one decennial period, if it have acquired sufficient population at the next decennial period, shall be entitled to a separate representation, if there shall be left, in the district from which it shall have been separated, a population sufficient for a representative; but no such change shall be made, except at the regular decennial period for the apportionment of representatives.

Same  
subject.

1 Debates, 460; 2 Debates, 6, 708, 765, 766, 782, 846, 862, 870.

SEC. 5. If, in fixing any subsequent ratio, a county, previously entitled to a separate representation, shall have less than the number required by the new ratio for a representative, such county shall be attached to the county adjoining it, having the least number of inhabitants; and the representation of the district, so formed, shall be determined as herein provided.

Same  
subject.

1 Debates, 460; 2 Debates, 6, 708, 766, 767, 782, 846, 862, 870.

SEC. 6. The ratio for a senator shall, forever hereafter, be ascertained, by dividing the whole population of the state by the number thirty-five.

Ratio for a  
senator.

1 Debates, 460; 2 Debates, 7, 708, 766, 782, 846, 862, 870.

SEC. 7. The state is hereby divided into thirty-three senatorial districts, as follows: The county of Hamilton shall constitute the first senatorial district; the counties of Butler and Warren, the second; Montgomery and Preble, the third; Clermont and Brown, the fourth; Greene, Clinton and Fayette, the fifth; Ross and Highland, the sixth; Adams, Pike, Scioto and Jackson, the seventh; Lawrence, Gallia, Meigs and Vinton, the eighth; Athens, Hocking and Fairfield, the ninth; Franklin, and Pickaway, the tenth; Clarke, Champaign and Madison, the eleventh; Miami, Darke and Shelby, the twelfth; Logan, Union, Marion and Hardin, the thirteenth; Washington and Morgan, the fourteenth; Muskingum and Perry, the fifteenth; Delaware and Licking, the sixteenth; Knox and Morrow, the seventeenth; Coshocton and Tuscarawas, the eighteenth; Guernsey and Monroe, the nineteenth; Belmont and Harrison, the twentieth; Carroll and Stark, the twenty-first; Jefferson and Columbiana, the twenty-second; Trumbull and Mahoning,

Senatorial  
districts.

the twenty-third; Ashtabula, Lake and Geauga, the twenty-fourth; Cuyahoga, the twenty-fifth; Portage and Summit, the twenty-sixth; Medina and Lorain, the twenty-seventh; Wayne and Holmes, the twenty-eighth; Ashland and Richland, the twenty-ninth; Huron, Erie, Sandusky and Ottawa, the thirtieth; Seneca, Crawford and Wyandot, the thirty-first; Mercer, Auglaize, Allen, Van Wert, Paulding, Defiance and Williams, the thirty-second; and Hancock, Wood, Lucas, Fulton, Henry and Putnam, the thirty-third: For the first decennial period, after the adoption of this constitution, each of said districts shall be entitled to one senator, except the first district, which shall be entitled to three senators.

"The whole state is divided into districts, and the limits of each clearly and definitely fixed. These limits were, in every instance, described by county lines, as they existed when the Constitution was adopted by the Convention—the boundaries of counties being referred to and adopted, from convenience and propriety, as the boundaries of districts; and thus making the limits of each district as certain as though it had been marked out by natural or artificial objects. While the counties remained, as they then were, of course, no one of them could be divided, so as to fall into different districts. But while the boundaries of counties, to a certain extent, and districts, were fixed upon the same lines, they were yet independent of each other; so that whatever changes might be made in county limits, the lines of the districts remained as before, subject only to such changes as are provided for in the Constitution itself." *State v. Dudley*, 1 Ohio St., 437-443—Ranney, J.

1 Debates, 460, 461; 2 Debates, 7, 709, 710, 783-787, 822, 823, 846, 862, 870.

Same  
subject.

SEC. 8. The same rules shall be applied, in apportioning the fractions of senatorial districts, and in annexing districts, which may hereafter have less than three-fourths of a senatorial ratio, as are applied to representative districts.

1 Debates, 460; 2 Debates, 7, 708, 766-771, 781, 782, 846, 862, 870.

Same  
subject.

SEC. 9. Any county forming part of a senatorial district, having acquired a population equal to a full senatorial ratio, shall be made a separate senatorial district, at any regular decennial apportionment, if a full senatorial ratio shall be left in the district from which it shall be taken.

2 Debates, 708, 767, 782, 846, 863, 870.

Apportion-  
ment of rep-  
resentatives  
for ten years.

SEC. 10. For the first ten years, after the year one thousand and eight hundred and fifty-one, the apportionment of representatives shall be as provided in the schedule, and no change shall ever be made in the principles of representation, as herein established, or, in the senatorial districts, except as above provided. All territory, belonging to a county at the time of any apportionment, shall, as to the right of representation and suffrage, remain an integral part thereof, during the decennial period.

"The exception contained in this section refers to the eighth and

ninth sections. . . . The provisions of this section irrevocably fix the districts, and apportion the representation for ten years. At the expiration of that period, other sections of the eleventh article direct specifically in what manner the executive officers, charged with the duty, shall ascertain and fix it, for another period of ten years. It is manifest that no change, alteration, or modification of the representative districts, is allowed between the periods of decennial apportionment; unlike the senate districts, they are not forever to remain unchanged. On the contrary, they must, of necessity, at the expiration of each ten years, so change as to conform to the boundaries of counties, as they are then found to exist; and the limits of districts, at those periods, become again identical with those of counties." *State v. Dudley*, 1 Ohio St., 437-444, 446, 447—Ranney, J.  
1 Debates, 460; 2 Debates, 7, 708, 767, 771, 782, 846, 863, 870.

SEC. 11. The governor, auditor and secretary of state, or any two of them, shall, at least six months prior to the October election, in the year one thousand eight hundred and sixty-one, and, at each decennial period thereafter, ascertain and determine the ratio of representation, according to the decennial census, the number of representatives and senators each county or district shall be entitled to elect, and for what years, within the next ensuing ten years, and the governor shall cause the same to be published, in such manner as shall be directed by law.

When the governor, auditor, and secretary of state to determine ratio of representation.

1 Debates, 460; 2 Debates, 7, 708, 767, 782, 846, 863, 870.

#### JUDICIAL APPORTIONMENT.

SEC. 12. For judicial purposes, the state shall be apportioned as follows:

Judicial purposes.

The county of Hamilton, shall constitute the first district, which shall not be subdivided; and the judges therein, may hold separate courts, or separate sittings of the same court, at the same time.

First district.

The counties of Butler, Preble and Darke, shall constitute the first subdivision, Montgomery, Miami and Champaign, the second, and Warren, Clinton, Greene and Clarke, the third subdivision, of the second district; and, together, shall form such district.

Second district.

The counties of Shelby, Auglaize, Allen, Hardin, Logan, Union and Marion shall constitute the first subdivision, Mercer, Van Wert, Putnam, Paulding, Defiance, Williams, Henry and Fulton, the second, and Wood, Seneca, Hancock, Wyandot and Crawford, the third subdivision, of the third district; and, together, shall form such district.

Third district.

The counties of Lucas, Ottawa, Sandusky, Erie and Huron, shall constitute the first subdivision, Lorain, Medina and Summit, the second, and the county of Cuyahoga, the third subdivision, of the fourth district; and, together, shall form such district.

Fourth district.

The counties of Clermont, Brown and Adams, shall constitute the first subdivision, Highland, Ross and Fayette, the second, and Pickaway, Franklin and Madison, the third

Fifth district.

- subdivision, of the fifth district; and, together, shall form such district.
- Sixth district. The counties of Licking, Knox and Delaware, shall constitute the first subdivision, Morrow, Richland and Ashland, the second, and Wayne, Holmes and Coshocton, the third subdivision, of the sixth district; and, together, shall form such district.
- Seventh district. The counties of Fairfield, Perry and Hocking, shall constitute the first subdivision, Jackson, Vinton, Pike, Scioto and Lawrence, the second, and Gallia, Meigs, Athens and Washington, the third subdivision, of the seventh district; and, together, shall form such district.
- Eighth district. The counties of Muskingum and Morgan, shall constitute the first subdivision, Guernsey, Belmont and Monroe, the second, and Jefferson, Harrison and Tuscarawas, the third subdivision, of the eighth district; and, together, shall form such district.
- Ninth district. The counties of Stark, Carroll and Columbiana, shall constitute the first subdivision, Trumbull, Portage and Mahoning, the second, and Geauga, Lake and Ashtabula, the third subdivision, of the ninth district; and, together, shall form such district.
- New counties attached. 2 Debates, 823, 824, 840, 841, 846, 847, 863, 870. SEC. 13. The general assembly shall attach any new counties, that may hereafter be erected, to such districts, or subdivisions thereof, as shall be most convenient.

"This section very clearly applies to any new county erected after the adoption of the Constitution by the Convention. This construction does not require any effect to be given to the Constitution before the first of September, but after it has taken effect, it directs the General Assembly what to do with counties erected after the tenth of March or, in other words, it imperatively requires the General Assembly, acting under the Constitution, to attach all counties created after that date, to some convenient district and subdivision." *State v. Dudley*, 1 Ohio St., 437-449, 450—Ranney, J.

2 Debates, 824, 847, 863, 870.

## ARTICLE XII.

### FINANCE AND TAXATION.

- Poll tax. SEC. 1. The levying of taxes, by the poll, is grievous and oppressive; therefore, the general assembly shall never levy a poll tax, for county or state purposes. (*See Const. 1802, Art. VIII, § 23.*)

The sum demanded for license to pursue an employment, when used as a means of supplying the public treasury, is a tax on such employment. *Mays v. Cincinnati*, 1 Ohio St., 268; *Cincinnati v. Bryson*, 15 Ohio, 625; *Cincinnati v. Buckingham*, 10 Ohio, 257-261; *State v. Proudfit*; *State v. Hibbard*, 3 Ohio, 63.

The fourth section of the act of March 31, 1864, "to organize and discipline the militia of Ohio" (61 O. L., 110), which provides that

"all persons subject to military duty, and who are not members of some volunteer organization, shall either become members of some volunteer organization, or shall pay into the county treasury, annually, the sum of four dollars, which sum shall be a commutation for fines and penalties for neglect to perform military service," etc., is not in conflict with this section. Such commutation is not a tax, but is only a means, or instrumentality, by which the General Assembly enforces, to the extent deemed necessary, the performance of military duty enjoined by Art. IX, § 1. *Houston v. Wright*, 15 Ohio St., 318.

1 Debates, 513; 2 Debates, 34, 35, 119, 651, 723, 744-747, 755, 789, 793, 818, 819, 831, 839-842, 851, 863, 870.

SEC. 2. Laws shall be passed, taxing, (1) by a uniform rule, all moneys, credits, (2) investments in bonds, stocks, (3) joint stock companies, or otherwise; and also all (4) real and personal property, (5) according to its true value in money; (6) but burying grounds, public school houses, houses used exclusively for public worship, institutions of purely public charity, public property used exclusively for any public purpose; and personal property, to an amount not exceeding in value two hundred dollars, for each individual, may, by general laws, be exempted from taxation; (7) but, all such laws shall be subject to alteration or repeal; and the value of all property, so exempted, shall, from time to time, be ascertained and published, as may be directed by law. (8)

Taxation by uniform rule.

(1) "The power of taxation is included in the legislative power. In our former Constitution, it was limited in one particular, the prohibition of a poll tax. In the present, it is regulated or limited in other particulars. This section is not a grant of power, but a regulation of the power already granted in the first section of the second article. The expression is, 'laws shall be passed;' not that the 'General Assembly shall have power to pass.' So of every provision in the twelfth article, they either prohibit or regulate the exercise of the power of taxation in specified instances." *Baker v. Cincinnati*, 11 Ohio St., 534-543—Gholson, J.

Assessments are not embraced within the meaning of the word "taxing" in this section. *Reeves v. Treas. of Wood Co.*, 8 Ohio St., 333; *Ridenour v. Saffin*, 1 Handy's Rep., 464. See Art. XIII, § 6, note 3.

(2) The Constitution permits no deduction of liabilities from moneys and credits. *Exchange Bank v. Hines*, 3 Ohio St., 1; *Ellis v. Linck*, *Ib.*, 66; *Latimer v. Morgan*, 6 Ohio St., 279.

(3) The state has power to tax shares in the national banks located in Ohio, subject to the limitations that such tax shall not exceed the rate imposed upon other moneyed capital of individuals, nor that imposed upon shares in the state banks, as provided in the act of Congress of June 3, 1864. *Frazer v. Siebern*, 16 Ohio St., 614.

The shares in national banks thus to be taxed, are to be understood as the individual property or choses of the stockholders, as contradistinguished from aliquot parts of the capital and property of the bank, and, as such, may be taxed at their full value, without deduction for

the franchise, for real estate otherwise taxed, or for untaxable bonds owned by the bank. *Ib.*

(4) The property of every person, however absolute the tenure by which it is held, must be liable to bear an equal and just proportion of the public burdens, by way of taxation, in return for the protection and advantages afforded by the government, and that proportion of taxation, must be determined by the legislative power, which extends to all persons and property within the state. *Toledo Bank v. Bond*, 1 Ohio St., 623.

All exemptions of any part of the property in a municipal corporation, otherwise subject to taxation, from contributing to the general revenue fund, are in conflict with this section. *Zanesville v. Richards*, 5 Ohio St., 589.

The fact that property subject to taxation has not been listed, although it improperly increases the burden of taxation on the property that is listed, does not render the tax wholly void, or authorize the interference of a court of equity. *Exchange Bank v. Hines*, 3 Ohio St., 1.

(5) An express direction to impose a tax on all property by a uniform rule, does not necessarily exclude taxation upon that which is not property, or cover the whole ground included within the limits of the taxing power. *Zanesville v. Richards*, 5 Ohio St., 589-593; *Baker v. Cincinnati*, 11 Ohio St., 540; *Cin. Gas. L. & C. Co. v. State*, 18 Ohio St., 243.

A license cannot be regarded as property of any description, and consequently is not subject to taxation under this section. But a charge may be exacted for it. Although authority to exact payment for a license is not expressly conferred in the Constitution, yet the exercise of the power not being prohibited, and not being inconsistent with any constitutional provisions, the General Assembly may lawfully confer such power. *Exchange Bank v. Hines*, 3 Ohio St., 1; *Baker v. Cincinnati*, 11 Ohio St., 534; *Cin. Gas. L. & C. Co. v. State*, 18 Ohio St., 243.

(6) Choses in action are to be listed at their true value. If a note, for instance, is wholly worthless, it is not to be listed at all; if it is of some value, but less than its face, it is to be listed at what it is worth. *Exchange Bank v. Hines*, 3 Ohio St., 1.

(7) "Power was thus conferred on the Legislature to reserve certain classes of property, but the absolute right was asserted to tax every species of property, by whomsoever owned, and it was not their duty, under all circumstances, to make the reservation; they might exercise the authority or not, as they should deem it just and consistent with the higher claim of the government; the law in which the reservation should be made, being always subject to alteration and repeal." *Matlack v. Jones*, 2 Disney's Rep., 5—Storer, J.

(8) This section is equally applicable to, and furnishes the governing principle for, all laws levying taxes for general revenue, whether for state, county, township or municipal purposes. *Zanesville v. Richards*, 5 Ohio St., 589; *Hill v. Higdon*, 5 Ohio St., 243; *Reeves v. Treas. of Wood Co.*, 8 Ohio St., 333; *Baker v. Cincinnati*, 11 Ohio St., 534; *Cin. Gas. L. & C. Co. v. State*, 18 Ohio St., 237; *Ridenour v. Saffin*, 1 Handy's Rep., 464.

Section three of the act of April 6, 1866, "for the inspection of gas meters," etc. (S. & S., 158), providing that the salary of the inspector



of gas meters and illuminating gas shall be paid by the several gas light companies in this state, in amounts proportionate to their appraised valuation, is not in conflict with this section. *Cin. Gas L. & C. Co. v. State*, 18 Ohio St., 237.

1 Debates, 513; 2 Debates, 35-116, 124-130, 651, 723-742, 754, 755, 789, 793, 818, 819, 826, 828, 830, 831, 839-842, 851, 852, 863, 870.

SEC. 3. The general assembly shall provide, by law, for taxing the notes and bills discounted or purchased, moneys loaned, and all other property, (1) effects, or dues, of every description (without deduction), (2) of all banks, now existing, or hereafter created, and of all bankers, (3) so that all property employed in banking, shall always bear a burden of taxation, equal to that imposed on the property of individuals. (4) Same subject.

(1) Moneys deposited with a bank or banker (unless specially deposited) become the moneys of the bank or banker, appertaining to the business of banking, and proper to be listed with the other moneys belonging to that business; and this is equally true of general deposits, whether they happen to be used in the discounting of paper, or held in reserve to pay probable current demands. *Ellis v. Linck*, 3 Ohio St., 66.

Under the 19th section of the tax law of April 13, 1852 (Swan's R. S., 906), all the assets and resources of a bank, whether specie or balances in other banks, must, if employed in any manner whereby the bank obtains or reserves a per cent., premium, profit, or a consideration, be averaged for taxation. Specie unemployed, not on hand for sale, and from which the bank derives no profit, etc., is not required to be returned to the assessor. So balances due from other banks, upon which no interest, profit or consideration is reserved or received, are not required to be returned to the assessor. *Stark County Bank v. McGregor*, 6 Ohio St., 45. (See preceding section, note 3.)

(2) Bankers (although private) cannot deduct their debts from their moneys and credits. *Ellis v. Linck*, 3 Ohio St., 66. And see *Exchange Bank v. Hines*, Ib. 1.

(3) Under the act of April 12, 1858 (55 O. L., 128), a partnership engaged in the business of banking was liable as such to the tax imposed by that act. *Robinson v. Ward*, 13 Ohio St., 293.

Persons having money employed in the business described in the 15th section of the tax law of April 13, 1852 (Swan's R. S., 906), are bankers, such as are forbidden to make deductions by this section of the Constitution. *Ellis v. Linck*, 3 Ohio St., 66.

(4) The tax law of April 13, 1852 (Swan's R. S., 906), is valid and constitutional in the basis it provides for the taxation of banks, bankers and brokers. The tenth section of that law, which allows individuals and certain corporations, in giving their tax lists, to deduct their liabilities from the amount of their moneys and credits, is repugnant to the Constitution of Ohio, and is void. But that section may be treated as void without affecting the validity of the remainder of the act. The remainder of the act permits no such deduction. *Exchange Bank v. Hines*, 3 Ohio St., 1, followed and approved in *Ellis v. Linck*, Ib. 66.

"This section was inserted that there might be no doubt how existing as well as future banks and bankers, whether incorporated or unincorporated, were to be taxed; that there might be no doubt what property of theirs was to be the object of taxation; and further, to deprive them of even the two hundred dollar exemption which may be permitted to individuals under section two. And hence it is that we find in it the words 'without deduction.'" *Exchange Bank v. Hines*, 3 Ohio St., 1-46—Thurman, J.

1 Debates, 513; 2 Debates, 116-119, 651, 664, 742-744, 755, 789-793, 818, 819, 828-831, 839-842, 851, 863, 870.

Revenue.

SEC. 4. The general assembly shall provide for raising revenue, sufficient to defray the expenses of the state, for each year, and also a sufficient sum to pay the interest on the state debt.

1 Debates, 513; 2 Debates, 119, 651, 748, 755, 789, 793, 818, 819, 831, 839-842, 851, 863, 870.

Levying of taxes.

SEC. 5. No tax shall be levied, except in pursuance of law; and every law imposing a tax, shall state, distinctly, the object of the same, to which only, it shall be applied.

The power of taxation being a sovereign power, can only be exercised by the General Assembly when, and as conferred, by the Constitution; and by municipal corporations only when unequivocally delegated to them by the legislative body. *Mays v. Cincinnati*, 1 Ohio St., 268.

The right of taxation, vital to the existence of every government, and one of the most important incidents of sovereignty, has only been delegated to the General Assembly, to be used for the purpose of accomplishing the lawful objects with which it is charged. It can only be exercised to raise money for these purposes; and any attempt to use it otherwise, or to control or abridge the right itself, is beyond the delegation, and an unauthorized assumption of power. *Debolt v. Ohio Life Ins. and Trust Co.*, 1 Ohio St., 563; *Toledo Bank v. Bond*, *Id.*, 623.

1 Debates, 513; 2 Debates, 119, 651, 744, 748, 755, 789, 793, 818, 819, 831, 839-842, 851, 863, 870.

No debt for internal improvement.

SEC. 6. The state shall never contract any debt for purposes of internal improvement.

This restriction applies to the state alone, and not to her subdivisions. *Cass v. Dillon*, 2 Ohio St., 608.

See Art. VIII, § 4, Note.

1 Debates, 513; 2 Debates, 119-124, 651, 748, 754, 755, 789, 793, 818, 819, 831, 839-842, 851, 863, 870.

## ARTICLE XIII.

### CORPORATIONS.

Corporate powers.

SECTION 1. The general assembly shall pass no special act conferring corporate powers.

The charter of the Marietta and Cincinnati Railroad Company did not authorize it to mortgage or sell its corporate franchise to be a cor-

poration; and a judicial sale upon mortgages executed by it, would not invest the purchasers with any corporate capacity whatever. A "special act" of the General Assembly, undertaking to give such an effect to the sale, and authorizing the purchasers to reorganize, create a new stock, and elect another board of directors, is, in substance and legal effect, an attempt to create a corporation and confer corporate powers by a special act, and is in conflict with this and the following section. *Atkinson v. M. & C. R. R. Co.*, 15 Ohio St., 21. And see *Art. XIII, § 6, Note 2.*

This section in its terms merely prohibits future special legislation conferring corporate powers, and does not, expressly nor by implication, abrogate former legislation of that character. *Citizens' Bank v. Wright*, 6 Ohio St., 318; *State v. Roosa*, 11 Ohio St., 16-25; *State v. Union Tp.*, 8 Ohio St., 394-400. And see the first note to following section.

1 Debates, 260, 340-363, 447, 458; 2 Debates, 644-650, 654-659, 667, 675, 851, 863, 870.

SEC. 2. Corporations may be formed under general laws; but all such laws may, from time to time, be altered or repealed. Corporations, how formed.

On March 22, 1850, prior to the adoption of this Constitution, the General Assembly passed a special act incorporating the Cincinnati, Lebanon and Xenia Railroad Company, authorizing commissioners therein named to open books, receive subscriptions to capital stock, and thereupon to organize a corporation under it. No steps were taken by the commissioners toward such subscription and organization until after this Constitution took effect, but such subscriptions were made and organization effected within the period limited by the special act for that purpose. Held: 1. That the special act was not abrogated or repealed by this section of the Constitution. 2. This section is prospective, and not retrospective, in its intent and application, conferring merely an authority to legislate, and does not repeal unaccepted acts of incorporation, enacted under the Constitution of 1802. *State v. Roosa*, 11 Ohio St., 16; *C. W. & Z. R. R. Co. v. Com. of Clinton Co.*, 1 Ohio St., 77; *Cass v. Dillon*, 2 Ohio St., 607-623; *Citizens' Bank v. Wright*, 6 Ohio St., 318; *State v. Van Horne*, 7 Ohio St., 327; *State v. Union Tp.*, 8 Ohio St., 394-400; *Com. of Knox Co. v. Nichols*, 14 Ohio St., 260; *Fosdick v. Perrysburg*, *Ib.*, 472.

A county is not properly a corporation, but is at most but a local organization, which, for purposes of civil administration, is invested with a few functions characteristic of a corporate existence. *C. W. & Z. R. R. Co. v. Com. of Clinton Co.*, 1 Ohio St., 77-89; *Com. of Hamilton Co. v. Mighels*, 7 Ohio St., 109; *Hunter v. Com. of Mercer Co.*, 10 Ohio St., 520; *State v. Cincinnati*, 20 Ohio St., 18-37; *Boall v. Com. of Williams Co.*, 18 Ohio, 13-16.

Where a corporation, in pursuance of an act of the Legislature, transfers or conveys its franchise to be a corporation to others, the transaction, in legal effect, is a surrender or abandonment of its charter by the corporation, and a grant by the Legislature of a similar charter to the transferees or purchasers; and the charter so granted is

subject to all the provisions of the Constitution existing at the time it is so granted. *State v. Sherman*, 22 Ohio St., 411.

The act of April 4, 1863 (S. & S., 131), authorizing the purchasers of the property of a railroad company to acquire the franchise to be a corporation by deed from the company, is a general law within the meaning of this section of the Constitution. *Ib.*

But a deed made by such company to a corporation of another state, which corporation had become the assignee of property sold as contemplated in said act, without any new organization, or taking of stock, under the deed, or as a corporation of Ohio, does not constitute the foreign corporation, or its members, an Ohio corporation, and in so far as said act may assume to create them such, it is unconstitutional, for the reason that it does not secure the individual liability of the stockholders. *Ib.* See first note to following section.

1 Debates, 260, 363-369, 458; 2 Debates, 644, 659-662, 675, 676, 851, 863, 870.

Dues from corporations, how secured.

SEC. 3. Dues from corporations shall be secured, by such individual liability of the stockholders, and other means, as may be prescribed by law; but, in all cases, each stockholder shall be liable, over and above the stock by him or her owned, and any amount unpaid thereon, to a further sum, at least equal in amount to such stock.

The Legislature has no power, under the present Constitution of Ohio, to create corporations without securing the individual liability of their stockholders, at least to the minimum amount required by the Constitution; and if the act of incorporation does not secure this, either by express provision, or by requiring from the corporators or stockholders such acts, of organization or otherwise, as will subject them to the constitutional provision, the act will be unconstitutional and void. *State v. Sherman*, 22 Ohio St., 411.

The liability of individual stockholders is collateral to the principal obligation of the corporation, and is to be resorted to by the creditors only in case of the insolvency of the corporation, or where payment cannot be enforced against it by the ordinary process of execution. *Wright v. McCormack*, 17 Ohio St., 86; *Wehrman v. Reakirt*, 1 Cin. Sup. Court Rep., 230.

This section is prospective in its intent and application. *Citizens' Bank v. Wright*, 6 Ohio St., 318; *State v. Roosa*, 11 Ohio St., 17.

1 Debates, 260, 369-385, 387-430, 433-443, 458; 2 Debates, 644, 667, 668, 676, 851, 863, 870.

Corporate property subject to taxation.

SEC. 4. The property of corporations, now existing or hereafter created, shall forever be subject to taxation, the same as the property of individuals.

A corporate franchise, being a mere privilege or grant of authority by the government, is not property of any description, and consequently not subject to taxation. *Exchange Bank v. Hines*, 3 Ohio St., 1-8; *Baker v. Cincinnati*, 11 Ohio St., 534-540.

"There was no absolute necessity for this section, for, without it,

section two of article twelve would have embraced these corporations.”  
*Exchange Bank v. Hines*, 3 Ohio St., 1-46—Thurman, J.

1 Debates, 260, 444, 458; 2 Debates, 659, 664-667, 676, 851, 863, 870.

SEC. 5. No right of way (1) shall be appropriated to the use of any corporation, (2) until full compensation (3) therefor be first made in money, or first secured by a deposit of money, (4) to the owner, irrespective of any benefit (5) from any improvement proposed by such corporation; which compensation shall be ascertained by a jury of twelve men, in a court of record, (6) as shall be prescribed by law. (7) Right of way.

(1) The General Assembly possesses the constitutional power to confer upon a corporation authorized to construct a railroad, the right to appropriate grounds necessary for its use for a depot. *Givay v. C. W. & Z. R. R. Co.*, 4 Ohio St., 308.

Where an incorporated company has, by its charter, authority to construct a road between given points, and to appropriate land to the width of sixty feet over which to locate the same, and, when finished, to charge and collect tolls from travelers who pass over it: Held, that after the company has made such an appropriation of land for the purpose of its road, and freeholders have, in accordance with the provisions of the charter, ascertained and determined the owner's damage, it may, within the sixty feet of ground used for the road, build a toll-house and dig a well for the accommodation of the toll-gatherer. *Ward v. Marietta and Newport Turnpike and Bridge Co.*, 6 Ohio St., 15.

“Any other structure, within the sixty feet, and essential to the carrying out of the object sought by the incorporators, and consonant with their charter, may, as an unavoidable and legitimate incident of the powers given them, be placed within the road limits.” *Id.*, 17—Bowen, J.

Under the general corporation act of 1852 (S. & C., 275, §§ 21, 27, 28), a railroad company has power to condemn land for new side tracks, leading from the main road to its depot buildings, whenever they become necessary in the proper management and operation of the road. *Toledo and Wabash R. R. Co. v. Daniels*, 16 Ohio St., 390.

Authority to lay down the necessary structure for a street railway, in a common highway or street, and to run cars thereon for the carriage of passengers for hire, may be lawfully granted to a company incorporated for that purpose, when no private right of the adjoining lot owners is thereby impaired. *Street Railway v. Cumminsville*, 14 Ohio St., 524.

A railroad company authorized to change the location of its track, on account of difficulty of construction and other causes, may do so at any time before the construction of its road is completed at the point where the change is made. *Atkinson v. M. & C. R. R. Co.*, 15 Ohio St., 21.

But having once located and constructed its road, the company can not re-locate it, and for that purpose appropriate private property. *Id.* *Moorehead v. L. M. R. R. Co.*, 17 Ohio, 340.

So where the charter of a railroad company merely fixes a few points through which the road is to pass, from its commencement to its terminus, leaving the location of the road between the points specified to the discretion of the corporation, the railroad company having once located the road, their power to re-locate, and for that purpose to appropriate the property of an individual, has ceased. *L. M. R. R. Co. v. Naylor*, 2 Ohio St., 235.

The same principle applies, whether the case be that of an attempt to re-locate on the property of an individual, or that of using a street or highway for the purpose. *Ib.*

Grants of corporate power, being in derogation of common right, are to be strictly construed—particularly where the power claimed is a delegation of the sovereign power of eminent domain. Hence, where a railroad company is authorized by law only "to enter upon any land to survey, lay down and construct its road," "to locate and construct branched roads from the main road to any town or places in the several counties through which the said road may pass," to appropriate land for "necessary side tracks," and "a right of way over adjacent lands sufficient to enable such company to construct and repair its road"; and such company has located, and is engaged in the construction of its permanent main road along the north side of a town, it is not authorized to appropriate a temporary right of way, for the term of three years, along the south side of the town, to be used as a substitute for the main track while the same is in course of construction along the north side of the town. *Currier v. M. & C. R. R. Co.*, 11 Ohio St., 228.

A railroad company organized under and made subject to the provisions of the "act regulating railroad companies," of February 11, 1848 (§. & C., 271), is not authorized to condemn private property to its exclusive use solely for the purposes of a wharf. *Iron R. R. Co. v. Iron-ton*, 19 Ohio St., 299.

The power given to municipal corporations to condemn private property for a public wharf is an express power; and the right of a railroad company to hold property exempt from the exercise of this power cannot be extended, by construction, to lands held by the company for uses and purposes for which it is not, by law, authorized to condemn private property. *Ib.*

(2) Corporate existence, and the right to exercise the power of eminent domain, can only be derived from legislative enactment; and before a company can demand a judgment of condemnation, it must show that both have been conferred upon it by a valid law, and that it has substantially complied with the conditions which the law has annexed to the exercise of the power. *Atkinson v. M. & C. R. R. Co.*, 15 Ohio St., 21; *A. & O. R. R. Co. v. Sullivant*, 5 Ohio St., 276.

A delegation of the power of eminent domain to a corporation as a necessary means to carry into effect the grant of its franchises, cannot be made the subject of either grant or sale. *Coe v. C. P. & I. R. R. Co.*, 10 Ohio St., 372; *Atkinson v. M. & C. R. R. Co.*, 15 Ohio St., 21-36. (But see Art. XIII, § 2, note.)

(3) Where a piece or strip of land is, by appropriation made by a railroad company, severed from its connection with the other land of the owner, in estimating the compensation to be made to the owner,

not only is the abstract value of the strip or piece taken to be considered, but also its relative value, and the effect arising from its severance from the residue of the owner's land, as well as the uses to which it is to be appropriated. *C. & P. R. R. Co. v. Ball*, 5 Ohio St., 569.

Where a right of way originally appropriated for one public use is afterward taken for another, the owner of the fee simple title to the lands is entitled to recover a full and fair compensation for such additional burdens and inconveniences, not common to the general public, as accrue to him and his entire tract on which the easement is imposed, by reason of the change of uses to which the lands appropriated have been subjected. *Hatch v. C. & I. R. R. Co.*, 18 Ohio St., 92.

The rightful power of a canal company over the canal, in the absence of any statute or contract to limit it, being exclusive, any use of the waters of the canal for purposes of navigation, or for watering stock by the owner of the fee simple of the lands intersected by it being a matter of sufferance and not of right, the loss of these conveniences by reason of the change of use, whereby the canal-bed is transformed into the roadway of a railroad, does not constitute an element to be reckoned in estimating the amount of his compensation. *Ib.*

Nor is such owner entitled to recover damages on account of increased danger from fire to his buildings or other structures, by reason of such change of use, unless the proximity of his buildings, etc., to the railroad be such as to render the danger imminent and appreciable. *Ib.*

Where an entire tract of land is cut asunder by an appropriation of an easement upon it by a canal company, for the purpose of a canal; and this easement is afterward transferred by the canal company to a railroad company for the purpose of a railroad; and the latter, in the construction of its railroad, throws up embankments or excavates cuts across a common public highway, skirting the tract, and constituting the only convenient medium of access between the parcels into which the tract has been thus severed, the increased inconvenience and danger of access thus occasioned between the two parts of the tract are peculiar to the owner of the tract in the use of his property, not common to the public at large, and for this increase of inconvenience and danger, he is entitled to compensation. *Ib.*

See Art. I, § 19, note 5.

(4) See Art. I, § 19, Notes 5, 6.

(5) The provisions of article one, section nineteen, and of this section—the one requiring compensation to be made without deduction for benefits, when property is applied to a public use, and the other providing for compensation irrespective of benefits, where it is taken by a corporation for a right of way—are, in legal effect, identical. When taken under either section, its fair market value in cash, at the time it is taken, must be paid to the owner; and the jury, in assessing the amount, have no right to consider or make use of the fact, that it has been increased in value by the proposal or construction of the improvement. *Giesy v. C. W. & Z. R. R. Co.*, 4 Ohio St., 309.

In a proceeding by a railroad corporation for an appropriation of a right of way under the act of April 30, 1852 (S. & C., 311), the jury, after allowing for the full value of the land actually appropriated for the right of way, in view of all its uses and relations, without deduc-

tions for benefits of any kind, in their estimate and assessment of the incidental damages accruing to other lands of the owner, cannot legally take into consideration and make allowance for general benefits—or such as accrue to the community and vicinage at large—from the construction of the work proposed. Whether special benefits, or such as accrue directly and solely to the owner of the lands appropriated, may be taken into consideration and allowed for, *quere*. *L. M. R. R. Co. v. Collet*, 6 Ohio St., 182.

This question is answered in part by the following notes :

Where compensation is claimed for the location and construction of a railroad between coal mines and a navigable river on the land-owner's premises, whereby the conveniences of the river transportation for the coal to market were injured, or cut off, it is competent for the railroad company to show that the river transportation, in connection with the coal banks, had ceased to be valuable, or become of less value, by means of the facilities for coal transportation afforded by the railroad, for the purpose of reducing the damages. *C. & P. R. R. Co. v. Ball*, 5 Ohio St., 568.

In case of a railroad appropriation for a right of way through a tract of land, causing incidental and local injury to the residue of the tract, although general resulting benefits from the railroad to the value of such residue of the land cannot be taken into account in estimating the amount of compensation to be paid the owner; yet, where a local incidental benefit to the residue of the land is blended or connected, either in locality or subject matter, with a local incidental injury to such residue of the land, the benefit may be considered in fixing the compensation to be paid the owner, not by way of deduction from the compensation, but of showing the extent of the injury done the value of the residue of the land. *Ib*.

But in assessing the compensation for a local incidental injury to the residue of the owner's tract of land, arising from the appropriation of the right of way, and construction of a railroad, whether a local incidental benefit arising from the railroad structure to the residue of the tract, but not connected either in locality or subject matter with the injury, can be taken into the account in estimating the compensation for the damages, *quere*. *Ib*.

*See Art. I, § 19, Note 8.*

(6) "It had been held in *Willyard v. Hamilton*, 7 Ohio, 2 pt., 115, that the value of property taken for public uses might rightfully be assessed by commissioners, it not being a case for trial by jury, secured by the Constitution, and that the proceeding need not be had in a court of justice. And the reason why it was not secured by the Constitution was, that it had never been so regarded in England or this country prior to the adoption of that instrument. This course of proceeding by commissioners, had been much complained of as unjust and oppressive to the owner of the property; and to make at once a proceeding within the protection of the Constitution and to be pursued in a court or justice with a common law jury, this section was inserted, when the Constitution was revised. It intended to afford the party the same protection as in other cases of jury trial; no more and no less." *Work v. State*, 2 Ohio St., 296-307—Ranney, J.

*See Art. I, § 19, Note 7.*



(7) If a statute confer authority, as upon a company to construct works of public interest, or upon city authorities to improve streets, and provide the mode of rendering satisfaction or obtaining compensation, that mode must be followed. *L. M. R. R. Co. v. Whitacre*, 8 Ohio St., 590; *Hueston v. E. & H. R. R. Co.*, 4 Ohio St., 685; *Akron v. McComb*, 18 Ohio, 229.

But a rule of compensation and mode of ascertaining it, prescribed by a law passed prior to the adoption of the present Constitution, was abrogated by it and a new rule and mode of compensation thereby prescribed. *Perrysburg C. & H. Co. v. Fitzgerald*, 10 Ohio St., 513.

1 Debates, 260, 444-447, 458; 2 Debates, 644, 667, 668, 674-676, 841, 849-851, 863, 870.

SEC. 6. The general assembly shall provide for the organization of cities, and incorporated villages, (1) by general laws, (2) and restrict their power of taxation, (3) assessment, (4) borrowing money, contracting debts and loaning their credit, so as to prevent the abuse of such power. (5)

Organization  
of cities, etc.

(1) The general act of May 3, 1852 (S. & C., 1493), "to provide for the organization of cities and incorporated villages," did not annihilate and recreate the municipal corporations of the state, but recognized and continued them, leaving their corporate identity unaffected. *Fosdick v. Perrysburg*, 14 Ohio St., 473.

The power conferred on the General Assembly by this section, to organize municipal corporations for local government, involves that of bestowing on them authority to provide the necessary means, by taxation and assessment, for sustaining and carrying out the objects of such government. Were it otherwise, the latter clause directing the Assembly to "restrict such power of taxation and assessment," presupposes its existence. *Ridenour v. Saffin*, 1 Handy's Rep., 464.

The power of creating municipal corporations necessarily implies authority to confer upon them such police powers as may be necessary for their internal government; and a resolution of a city council requiring lots, on which is stagnant water, to be filled up, being a reasonable sanitary measure for preserving the health of the inhabitants, is not in conflict with the Constitution. *Bliss v. Kraus*, 16 Ohio St., 54.

Proceedings to annex contiguous territory to the corporate limits of a town, in pursuance of the fourteenth section of the act to provide for the organization of cities and incorporated villages (S. & C., 1497), are not in contravention of the provisions of the Constitution. *Powers v. Com. of Wood Co.*, 8 Ohio St., 285; *Blanchard v. Bissell*, 11 Ohio St., 96.

(2) Under the restrictive and mandatory provisions of this and the first section of this article, the General Assembly cannot, by a special act, confer additional powers on a corporation already existing; and in the purview and application of the provisions of these sections, there is no distinction between private and municipal corporations. *State v. Cincinnati*, 20 Ohio St., 18.

The act of April 16, 1870 (67 O. L., 141), "to prescribe the corporate limits of Cincinnati," is a special act. It assumes to confer upon the corporation of that city additional powers; to confer, on certain condi-

tions, the power of municipal government, the power of police regulation, the power of judicial jurisdiction, and of assessment and taxation, over a number of outlying incorporated suburban villages and other territory not before within the limits of the city; and is therefore repugnant to the Constitution, and of no binding force and validity. *Ib.*

(3) It is well settled in this state, by repeated adjudications, that, independent of constitutional prohibitions, it is within the legitimate scope of legislative power to authorize a city to aid in the construction of railroads or other public improvements in which such city has a special interest, and to impose taxes upon its citizens for that purpose. *Walker v. Cincinnati*, 21 Ohio St., 14; and see numerous authorities there cited.

It follows that it is equally competent for the Legislature to authorize the entire construction of such improvements by a city having a special interest therein, and to empower the local authorities to provide means therefor by the taxation of its citizens. *Ib.*

Where the authority given is to construct a line of railroad, having one of its termini in such city, it does not affect the question of power, that the road when constructed will lie mainly outside of the State of Ohio. It is the corporate interest of the municipality which determines her right of taxation, and not the location of the road, which may well be constructed with the consent of the state into or through which it may pass. *Ib.*

Taxation can only be authorized for public purposes. Where, therefore, a statute authorizes a county, township or municipality to levy taxes not above a given per cent. on the taxable property of the locality, for the purpose of building so much of a railroad as can be built for that amount, and the part of a railroad to be built can be of no public utility unless used to accomplish an unconstitutional purpose, such tax is illegal, and cannot be imposed. *Taylor v. Com. of Ross Co.*, 22 Ohio St.

(4) Difference between "taxes" and "assessments." The former are levied for general public purposes, upon all alike; and are compensated for by the equal protection of government afforded to all. The latter are laid for local purposes, upon local objects, and are recompensed in local benefits and improvements. *Ridenour v. Saffin*, 1 Handy's Rep., 464.

"An assessment is doubtless a tax; but the term implies something more; it implies a tax of a particular kind, predicated upon the principle of equivalents or benefits, which are peculiar to the person or property charged therewith, and which are said to be assessed or appraised according to the measure or proportion of such equivalents. Whereas, a simple tax is imposed for the purpose of supporting the government generally, without reference to any special advantage, which may be supposed to accrue to the persons taxed. Taxes must be levied without discrimination, equally upon all the subjects of property, whilst assessments are only levied upon lands, or some other specific property, the subject of the supposed benefits, to repay which the assessment is levied." *Ib.*, 473—Spencer, J.

"The Constitution did not intend of itself to regulate the manner of levying assessments, any more than to prescribe the limits thereof,

but has wisely left the whole matter to legislative discretion, to be exercised as circumstances should from time to time justify." *Ib.*, 475.

Legislation authorizing cities and villages to levy special assessments for the purpose of improving streets, upon real property peculiarly and specially benefited, is not repugnant to the Constitution. And such assessment may be made upon property abutting on such streets, in proportion to the number of feet front abutting thereon. *Ridenour v. Saffin*, 1 Handy's Rep., 464; *Bonsall v. Lebanon*, 19 Ohio, 418; *Scovill v. Cleveland*, 1 Ohio St., 126; *Hill v. Higdon*, 5 Ohio St., 243; *Marion v. Epler*, *Ib.*, 250; *Ernst v. Kunkle*, *Ib.*, 520; *Reeves v. Treas. of Wood Co.*, 8 Ohio St., 333; *Foster v. Com. of Wood Co.*, 9 Ohio St., 540; *N. I. R. R. Co. v. Connelly*, 10 Ohio St., 159; *Maloy v. Marietta*, 11 Ohio St., 636; *Crighton v. Scott*, 14 Ohio St., 438; *State v. Com. of Warren Co.*, 17 Ohio St., 558.

Such assessment may be levied by the acre. *Foster v. Com. of Wood Co.*, 9 Ohio St., 540.

Such assessment need not be levied upon all lands on such street, but only on those bounding upon the improvement or near thereto. *Scovill v. Cleveland*, 1 Ohio St., 127.

The assessment, whether by the front foot or upon the value assessed for taxation, must be uniform, operating alike upon all the lots or lands abutting upon the improvement, and the fact that one or more of the tracts may not have been benefited by the improvement, will not render such assessment invalid. *N. I. R. R. Co. v. Connelly*, 10 Ohio St., 159.

Lands appropriated by a railroad company for its track through a city, and crossing the improved street at right angles, and upon which the track was constructed after the work had been completed, is liable to such assessment. And as between the railroad company and the person performing the work (whatever may be the rights of bona fide mortgagees of said railroad), the lands so appropriated may be sold to pay said assessment. *Ib.*

The power to authorize assessments as distinguished from taxes proper, is comprehended in the general grant of legislative power to the General Assembly. *Reeves v. Treas. of Wood Co.*, 8 Ohio St., 333; *Baker v. Cincinnati*, 11 Ohio St., 534.

The power to authorize assessments for the construction of free turn-pike roads, and the opening of drains, as well as for the improvement of streets and sidewalks, exists to the same extent under the present Constitution as under that of 1802. *Reeves v. Treas. of Wood Co.*, 8 Ohio St., 333.

(5) The authority and duty to prevent an abuse of the powers of taxation and assessment by municipal corporations, is intrusted by this section of the Constitution to the General Assembly, and not to the courts of the state. And the power of the Legislature to authorize local taxation cannot be judicially denied on the ground that the purpose for which it is exercised is not local, unless the absence of all special local interest is clearly apparent. *Walker v. Cincinnati*, 21 Ohio St., 14.

This section relates exclusively to cities and villages, and can have

no application to counties or county commissioners. *State v. Com. of Warren Co.*, 17 Ohio St., 561.

1 Debates, 260, 447, 458. 2 Debates, 608, 676, 838, 851, 863, 864, 870.

Associations with banking powers.

SEC. 7. No act of the general assembly, authorizing associations with banking powers, shall take effect until it shall be submitted to the people, at the general election next succeeding the passage thereof, and be approved by a majority of all the electors, voting at such election.

This section, as well as the second and third, is prospective, and not retrospective, in its intent and application. *Citizens' Bank v. Wright*, 6 Ohio St., 318; *State v. Roosa*, 11 Ohio St., 17.

1 Debates, 707, 709; 2 Debates, 20, 344-346, 392-396, 402-424, 795-803, 806, 819, 820, 824, 850, 851, 864, 870.

## ARTICLE XIV.

### JURISPRUDENCE.

Commissioners.

SEC. 1. The general assembly, at its first session after the adoption of this constitution, shall provide for the appointment of three commissioners, and prescribe their tenure of office, compensation, and the mode of filling vacancies in said commission.

1 Debates, 338, 551-554; 2 Debates, 331, 838, 864, 870.

Their duties.

SEC. 2. The said commissioners shall revise, reform, simplify and abridge the practice, pleading, forms and proceedings of the courts of record of this state; and, as far as practicable and expedient, shall provide for the abolition of the distinct forms of action at law, now in use, and for the administration of justice by a uniform mode of proceeding, without reference to any distinction between law and equity.

1 Debates, 338, 554-577; 2 Debates, 319-321, 324-326, 331, 838, 864, 870.

Their report.

SEC. 3. The proceedings of the commissioners shall, from time to time, be reported to the general assembly, and be subject to the action of that body.

1 Debates, 338; 2 Debates, 331, 838, 864, 870.

## ARTICLE XV.

### MISCELLANEOUS.

Seat of government.

SEC. 1. Columbus shall be the seat of government, until otherwise directed by law. (*See Const. 1802, Art. VII, § 4.*)

1 Debates, 164, 259; 2 Debates, 318, 568, 633, 664, 854, 864, 870.

Public printing.

SEC. 2. The printing of the laws, journals, bills, legislative documents and papers for each branch of the general assembly, with the printing required for the executive and other departments of state, shall be let, on contract, to the

lowest responsible bidder, by such executive officers, and in such manner, as shall be prescribed by law.

1 Debates, 163, 230; 2 Debates, 318, 560, 582-589, 632, 633, 664, 854, 864, 870.

SEC. 3. An accurate and detailed statement of the receipts and expenditures of the public money, the several amounts paid, to whom, and on what account, shall, from time to time, be published, as shall be prescribed by law.

Receipts and expenditures.

1 Debates, 163, 237-239; 2 Debates, 151, 318, 564-566, 633, 664, 854, 864, 870.

SEC. 4. No person shall be elected or appointed to any office in this state, unless he possess the qualifications of an elector.

Who eligible to office.

*See Art. V.*

1 Debates, 163, 258; 2 Debates, 318, 567, 633, 664, 854, 864, 870.

SEC. 5. No person who shall hereafter fight a duel, assist in the same as second, or send, accept, or knowingly carry, a challenge therefor, shall hold any office in this state.

Duelists ineligible.

1 Debates, 164, 260-263; 2 Debates, 165, 318, 569, 578, 590, 633, 664, 854, 864, 870.

SEC. 6. Lotteries, and the sale of lottery tickets, for any purpose whatever, shall forever be prohibited in this state.

Lotteries.

1 Debates, 164, 263; 2 Debates, 318, 569, 633, 664, 854, 864, 870.

SEC. 7. Every person chosen or appointed to any office under this state, before entering upon the discharge of its duties, shall take an oath or affirmation, to support the constitution of the United States, and of this state, and also an oath of office. (*See Const. 1802, Art. VII, § 1.*)

Oath of officers.

All officers should take the oath required by the Constitution, whether the law, under which they hold office, prescribe this duty or not. The injunctions of the Constitution in this respect are as obligatory as those of a statute could be. *State v. Kennon*, 7 Ohio St., 546-558—Brinkerhoff, J.

1 Debates, 163, 293; 2 Debates, 318, 634, 664, 854, 864, 870.

SEC. 8. There may be established, in the secretary of state's office, a bureau of statistics, under such regulations as may be prescribed by law.

Bureau of statistics.

2 Debates, 293, 755, 756, 854, 864, 870.

## ARTICLE XVI.

### AMENDMENTS.

SEC. 1. Either branch of the general assembly may propose amendments to this constitution; and, if the same shall be agreed to, by three-fifths of the members elected to each house, such proposed amendments shall be entered on the journals, with the yeas and nays, and shall be published in at least one newspaper in each county of the state, where a newspaper is published, for six months preceding the next election for senators and representatives, at which time the

This constitution may be amended, and how.

same shall be submitted to the electors, for their approval or rejection; and if a majority of the electors, voting at such election, shall adopt such amendments, the same shall become a part of the constitution. When more than one amendment shall be submitted at the same time, they shall be so submitted, as to enable the electors to vote on each amendment, separately.

2 Debates, 339, 427, 428, 434, 436, 446, 811, 839, 864, 870.

Same subject.

SEC. 2. Whenever two-thirds of the members elected to each branch of the general assembly, shall think it necessary to call a convention, to revise, amend, or change this constitution, they shall recommend to the electors to vote, at the next election of members to the general assembly, for or against a convention; and if a majority of all the electors, voting at said election, shall have voted for a convention, the general assembly shall, at their next session, provide, by law, for calling the same. The convention shall consist of as many members as the house of representatives, who shall be chosen in the same manner, and shall meet within three months after their election, for the purpose aforesaid. (*See Const. 1802, Art. VII, § 5.*)

2 Debates, 339, 428, 429, 434, 436, 446, 811, 839, 864, 870.

Same subject.

SEC. 3. At the general election, to be held in the year one thousand eight hundred and seventy-one, and in each twentieth year thereafter, the question: "Shall there be a convention to revise, alter, or amend the constitution," shall be submitted to the electors of the state; and, in case a majority of all the electors, voting at such election, shall decide in favor of a convention, the general assembly, at its next session, shall provide, by law, for the election of delegates, and the assembling of such convention, as is provided in the preceding section; but no amendment of this constitution, agreed upon by any convention assembled in pursuance of this article, shall take effect, until the same shall have been submitted to the electors of the state, and adopted by a majority of those voting thereon.

2 Debates, 339, 429-436, 446, 811, 839, 864, 870.

## SCHEDULE.

Of prior laws.

SECTION 1. All laws of this state, in force on the first day of September, one thousand eight hundred and fifty-one, not inconsistent with this constitution, shall continue in force, until amended or repealed. (*See Const. 1802, Sched., § 4.*)

The laws of a conquered country being held to remain in force until repealed, so far as they are consistent with the government of the conquerors, *a fortiori* must it be held, that the laws of a state survive a peaceable change of its constitution, effected by its own people, and not varying the general structure of the government, to the full extent to which they are consistent with the new order of things. *Cass v. Dillon*, 2 Ohio St., 607.

The new constitution of Ohio created no new state. It only altered, in some respects, the fundamental law of a state already in existence; and even this was done pursuant to the prior constitution, under whose provisions the convention was called, and the new constitution framed. *Ib.*

It follows, that all laws in force when the latter took effect, and which were not inconsistent with it, would have remained in force without an express provision to that effect; and all inconsistent laws fell simply because they were inconsistent; in other words, all repugnant laws were repealed by implication. *Ib.*

The rule, that repeals by implication are not favored, is applicable to the inquiry, whether any particular enactment has ceased to be in force on account of repugnancy to the new constitution. *Ib.*; *State v. Dudley*, 1 Ohio St., 437.

The repugnancy which must cause the law to fall, must be necessary and obvious; if by any fair course of reasoning, the law and the Constitution can be reconciled, the law must stand. *C. W. & Z. R. R. Co. v. Com. of Clinton Co.*, 1 Ohio St., 77; *State v. Dudley*, *Ib.* 437; *Cass v. Dillon*, 2 Ohio St., 608; *Hill v. Higdon*, 5 Ohio St., 243; *Armstrong v. Treas. of Athens Co.*, 10 Ohio, 235; *Goshorn v. Purcell*, 11 Ohio St., 653. And see Art. IV, § 1, note 1.

The English common law, so far as it is reasonable in itself, suitable to the condition and business of our people, and consistent with the letter and spirit of our federal and state constitutions and statutes, has been and is followed by our courts, and may be said to constitute a part of the common law of Ohio. But wherever it has been found wanting in either of these requisites, our courts have not hesitated to modify it to suit our circumstances, or, if necessary, wholly to depart from it. *Bloom v. Richards*, 2 Ohio St., 387.

2 Debates, 804, 818, 819, 844, 847, 864, 870.

SEC. 2. The first election for members of the general assembly, under this constitution, shall be held on the second Tuesday of October, one thousand eight hundred and fifty-one.

2 Debates, 804, 817-819, 844, 847, 864, 870.

SEC. 3. The first election for governor, lieutenant governor, auditor, treasurer, and secretary of state and attorney general, shall be held on the second Tuesday of October, one thousand eight hundred and fifty-one. The persons, holding said offices on the first day of September, one thousand eight hundred and fifty-one, shall continue therein, until the second Monday of January, one thousand eight hundred and fifty-two.

2 Debates, 804, 817-819, 843, 844, 847, 864, 870.

SEC. 4. The first election for judges of the supreme court, courts of common pleas, and probate courts, and clerks of the courts of common pleas, shall be held on the second Tuesday of October, one thousand eight hundred and fifty-one, and the official term of said judges and clerks, so elected, shall commence on the second Monday of February, one thousand eight hundred and fifty-two. Judges and

The first election for members of general assembly.

For state officers.

For judges, clerks, etc.

clerks of the courts of common pleas and supreme court, in office on the first day of September, one thousand eight hundred and fifty-one, shall continue in office with their present powers and duties, until the second Monday of February, one thousand eight hundred and fifty-two. No suit or proceeding, pending in any of the courts of this state, shall be affected by the adoption of this constitution.

*See Art. IV, § 7, Note 2; § 13, Note.*

2 Debates, 804, 817-819, 844, 847, 864, 870.

What officers to continue in office until the expiration of their term.

SEC. 5. The register and receiver of the land office, directors of the penitentiary, directors of the benevolent institutions of the state, the state librarian, and all other officers, not otherwise provided for in this constitution, in office on the first day of September, one thousand eight hundred and fifty-one, shall continue in office, until their terms expire, respectively, unless the general assembly shall otherwise provide.

2 Debates, 804, 817-819, 844, 847, 864, 865, 870.

As to certain courts.

SEC. 6. The superior and commercial courts of Cincinnati, and the superior court of Cleveland, shall remain, until otherwise provided by law, with their present powers and jurisdiction; and the judges and clerks of said courts, in office on the first day of September, one thousand eight hundred and fifty-one, shall continue in office, until the expiration of their terms of office, respectively, or, until otherwise provided by law; but neither of said courts shall continue after the second Monday of February, one thousand eight hundred and fifty-three; and no suits shall be commenced in said two first mentioned courts, after the second Monday of February, one thousand eight hundred and fifty-two, nor in said last mentioned court, after the second Monday in August, one thousand eight hundred and fifty-two; and all business in either of said courts, not disposed of within the time limited for their continuance as aforesaid, shall be transferred to the court of common pleas.

2 Debates, 804, 818, 819, 844, 847, 865, 870.

County and township officers.

SEC. 7. All county and township officers and justices of the peace, in office on the first day of September, one thousand eight hundred and fifty-one, shall continue in office until their terms expire, respectively.

2 Debates, 804, 818, 819, 844, 847, 865, 870.

Vacancies.

SEC. 8. Vacancies in office, occurring after the first day of September, one thousand eight hundred and fifty-one, shall be filled, as is now prescribed by law, and until officers are elected or appointed, and qualified, under this constitution.

2 Debates, 804, 817-819, 844, 847, 865, 870.

When constitution shall take effect.

SEC. 9. This constitution shall take effect, on the first day of September, one thousand eight hundred and fifty-one.

"The Constitution must receive the same construction since its ratification by the people that it would have received when it passed from the hands of the Convention. As a necessary result from this principle, things as they existed on the tenth of March, when it was adopted



by the Convention, must control in its construction. In short, the instrument speaks from the tenth of March, although by its own terms, its effect was postponed to the first of September, and none the less so because the approval of the people was made necessary to its ultimate effect. They but ratified and approved an act already done by their representatives in convention, and were not, in any correct sense, the authors of the act itself." *State v. Dudley*, 1 Ohio St., 437-442—Ranney, J.

2 Debates, 804, 818, 819, 844, 847, 865, 870.

SEC. 10. All officers shall continue in office, until their successors shall be chosen and qualified. (*See Const.* 1802, *Sched.* § 3.) Term of office.

This section was not intended as a permanent provision of the Constitution, and as such applicable to officers chosen under it, but was limited, in its application, to officers chosen or appointed under the old Constitution and whose term of office did not expire, until after the taking effect of the new Constitution. *State v. Taylor*, 15 Ohio St., 137.

2 Debates, 804, 818, 819, 844, 847, 865, 870.

SEC. 11. Suits pending in the supreme court in bank, shall be transferred to the supreme court provided for in this constitution, and be proceeded in according to law. Transfer of suits.

2 Debates, 804, 818, 819, 844, 847, 865, 870.

SEC. 12. The district courts shall, in their respective counties, be the successors of the present supreme court; and all suits, prosecutions, judgments, records and proceedings, pending and remaining in said supreme court, in the several counties of any district, shall be transferred to the respective district courts of such counties, and be proceeded in, as though no change had been made in said supreme court. Same subject.

2 Debates, 804, 817-819, 844, 847, 865, 870.

SEC. 13. The said courts of common pleas, shall be the successors of the present courts of common pleas in the several counties, except as to probate jurisdiction; and all suits, prosecutions, proceedings, records and judgments, pending or being in said last mentioned courts, except as aforesaid, shall be transferred to the courts of common pleas created by this constitution, and proceeded in, as though the same had been therein instituted. Same subject.

2 Debates, 804, 818, 819, 844, 847, 865, 870.

SEC. 14. The probate courts provided for in this constitution, as to all matters within the jurisdiction conferred upon said courts, shall be the successors, in the several counties, of the present courts of common pleas; and the records, files and papers, business and proceedings, appertaining to said jurisdiction, shall be transferred to said courts of probate, and be there proceeded in, according to law. Same subject.

2 Debates, 804, 817-819, 844, 847, 865, 870.

Judges and  
clerks, how  
elected, etc.

SEC. 15. Until otherwise provided by law, elections for judges and clerks shall be held, and the poll books returned, as is provided for governor, and the abstract therefrom, certified to the secretary of state, shall be by him opened, in the presence of the governor, who shall declare the result. and issue commissions to the persons elected.

2 Debates, 844, 847, 865, 870.

Election re-  
turns, where  
sent.

SEC. 16. Where two or more counties are joined in a senatorial, representative, or judicial district, the returns of elections shall be sent to the county, having the largest population.

2 Debates, 782, 847, 865, 870.

Constitution  
submitted to  
the electors  
of the state,  
etc.

SEC. 17. The foregoing constitution shall be submitted to the electors of the state, at an election to be held on the third Tuesday of June, one thousand eight hundred and fifty-one, in the several election districts of this state. The ballots at such election shall be written or printed as follows: Those in favor of the constitution, "New Constitution, Yes;" those against the constitution, "New Constitution, No." The polls at said election shall be opened between the hours of eight and ten o'clock A. M., and closed at six o'clock P. M.; and the said election shall be conducted, and the returns thereof made and certified, to the secretary of state, as provided by law for annual elections of state and county officers. Within twenty days after such election, the secretary of state shall open the returns thereof, in the presence of the governor; and, if it shall appear that a majority of all the votes, cast at such election, are in favor of the constitution, the governor shall issue his proclamation, stating that fact, and said constitution shall be the constitution of the state of Ohio, and not otherwise.

The results of this election, excluding the returns of two counties, Defiance and Auglaize, which were not received in the twenty days specified, were as follows:

"New Constitution, Yes," .....	125,564
"New Constitution, No," .....	109,276

Majority for New Constitution .....	16,288
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2 Debates, 805, 813-815, 819, 824, 844, 847, 848, 865, 870.

License to  
traffic in in-  
toxicating  
liquor.

SEC. 18. At the time when the votes of the electors shall be taken for the adoption or rejection of this constitution, the additional section, in the words following, to wit: "No license to traffic in intoxicating liquors shall hereafter be granted in this state; but the general assembly may, by law, provide against evils resulting therefrom," (1) shall be separately submitted to the electors for adoption or rejection, in form following, to wit: A separate ballot may be given by every elector and deposited in a separate box. Upon the ballots given for said separate amendment shall be written or printed, or partly written and partly printed, the words: "License to sell intoxicating liquors, Yes;" and

upon the ballots given against said amendment, in like manner, the words: "License to sell intoxicating liquors, No." If, at the said election, a majority of all the votes given for and against said amendment, shall contain the words: "License to sell intoxicating liquors, No," then the said amendment shall be a separate section of article fifteen of the constitution. (2)

(1) This clause expressly authorized §§ 1, 2, 4, 8, of the act of May 1, 1854 (S. & C., 1431), "to provide against the evils resulting from the sale of intoxicating liquors in the State of Ohio." *Miller v. State*, 3 Ohio St., 475.

(2) This election resulted :

"License to sell intoxicating liquors, No," .....	113,239
"License to sell intoxicating liquors, Yes," .....	104,255

Majority for No License.....	8,984
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2 Debates, 362, 436-461, 694, 695, 711-723, 726, 788, 789, 793, 805, 848, 865, 870.

SEC. 19. The apportionment for the house of representatives, during the first decennial period under this constitution, shall be as follows:

Apportionment for house of representatives.

The counties of Adams, Allen, Athens, Auglaize, Carroll, Champaign, Clark, Clinton, Crawford, Darke, Delaware, Erie, Fayette, Gallia, Geauga, Greene, Hancock, Harrison, Hocking, Holmes, Lake, Lawrence, Logan, Madison, Marion, Meigs, Morrow, Perry, Pickaway, Pike, Preble, Sandusky, Scioto, Shelby and Union, shall, severally, be entitled to one representative, in each session of the decennial period.

The counties of Franklin, Licking, Montgomery and Stark, shall each be entitled to two representatives, in each session of the decennial period.

The counties of Ashland, Coshocton, Highland, Huron, Lorain, Mahoning, Medina, Miami, Portage, Seneca, Summit and Warren, shall, severally, be entitled to one representative, in each session; and one additional representative, in the fifth session of the decennial period.

The counties of Ashtabula, Brown, Butler, Clermont, Fairfield, Guernsey, Jefferson, Knox, Monroe, Morgan, Richland, Trumbull, Tuscarawas and Washington, shall, severally, be entitled to one representative, in each session; and two additional representatives, one in the third, and one in the fourth session of the decennial period.

The counties of Belmont, Columbiana, Ross and Wayne, shall, severally, be entitled to one representative, in each session; and three additional representatives, one in the first, one in the second, and one in the third session of the decennial period.

The county of Muskingum shall be entitled to two representatives, in each session; and one additional representative, in the fifth session of the decennial period.

The county of Cuyahoga shall be entitled to two representatives, in each session; and two additional representa-

tives, one in the third, and one in the fourth session of the decennial period.

The county of Hamilton shall be entitled to seven representatives, in each session; and four additional representatives, one in the first, one in the second, one in the third, and one in the fourth session, of the decennial period.

The following counties, until they shall have acquired a sufficient population to entitle them to elect, separately, under the fourth section of the eleventh article, shall form districts in manner following, to wit: The counties of Jackson and Vinton, one district; the counties of Lucas and Fulton, one district; the counties of Wyandot and Hardin, one district; the counties of Mercer and Van Wert, one district; the counties of Paulding, Defiance and Williams, one district; the counties of Putnam and Henry, one district; and the counties of Wood and Ottawa, one district: each of which districts shall be entitled to one representative, in every session of the decennial period.

1 Debates, 460; 2 Debates, 7, 708, 782, 783, 822, 823, 848, 865, 866, 870.

Done in convention, at Cincinnati, the tenth day of March, (1) in the year of our Lord, one thousand eight hundred and fifty-one, and of the independence of the United States, the seventy-fifth.

(1) See Sched., § 9, Note.

WILLIAM MEDILL, *President.*

Attest: WM. H. GILL, *Secretary.*

S. J. ANDREWS,  
WILLIAM BARBER,  
JOSEPH BARNETT,  
DAVID BARNET,  
WM. S. BATES,  
A. I. BENNETT,  
JOHN H. BLAIR,  
JACOB BLICKENSBERGER,  
VAN BROWN,  
R. W. CAHILL,  
L. CASE,  
DAVID CHAMBERS,  
JOHN CHANY,  
H. D. CLARK,  
GEORGE COLLINS,  
FRIEND COOK,  
OTWAY CURRY,  
G. VOLNEY DORSEY,  
THOS. W. EWART,  
JOHN EWING,  
JOSEPH M. FARR,  
ELIAS FLORENCE,  
ROBERT FORBES,  
H. N. GILLET,  
JOHN GRAHAM,

JACOB J. GREENE,  
JOHN L. GREEN,  
HENRY H. GREGG,  
W. S. GROESBECK,  
C. S. HAMILTON,  
D. D. T. HARD,  
A. HARLAN,  
WILLIAM HAWKINS,  
JAMES P. HENDERSON,  
PETER HITCHCOCK,  
J. McCORMICK,  
G. W. HOLMES,  
GEO. B. HOLT,  
JOHN J. HOOTMAN,  
V. B. HORTON,  
SAMUEL HUMPHREVILLE,  
JOHN E. HUNT,  
B. B. HUNTER,  
JOHN JOHNSON,  
J. DAN. JONES,  
JAMES B. KING,  
S. J. KIRKWOOD,  
THOS. J. LARSH,  
WILLIAM LAWRENCE,  
JOHN LARWILL,

ROBERT LEECH,	HENRY STANBERY,
D. P. LEADBETTER,	B. STANTON,
JOHN LIDEY,	ALBERT V. STEBBINS,
JAMES LOUDON,	E. T. STICKNEY,
H. S. MANON,	HARMAN STIDGER,
SAMSON MASON,	JAMES STRUBLE,
MATTHEW H. MITCHELL,	J. R. SWAN,
ISAIAH MORRIS,	L. SWIFT,
CHARLES MCCLOUD,	JAMES W. TAYLOR,
S. F. NORRIS,	NORTON S. TOWNSHEND,
CHAS. J. ORTON,	ELIJAH VANCE,
W. S. C. OTIS,	WM. M. WARREN,
THOMAS PATTERSON,	THOMAS A. WAY,
DANL. PECK,	J. MILTON WILLIAMS,
JACOB PERKINS,	ELSEY WILSON,
SAML. QUIGLEY,	JAS. T. WORTHINGTON,
R. P. RANNEY,	E. B. WOODBURY,
CHS. REEMELIN,	H. C. GRAY,
ADAM N. RIDDLE,	EDWARD ARCHBOLD,
EDWARD C. ROLL,	REUBEN HITCHCOCK,
WM. SAWYER,	F. CASE,
SABIRT SCOTT,	JOSEPH VANCE,
JOHN SELLERS,	RICH'D STILLWELL,
JOHN A. SMITH,	SIMEON NASH,
GEORGE J. SMITH,	HUGH THOMPSON,
B. P. SMITH,	JOSEPH THOMPSON.

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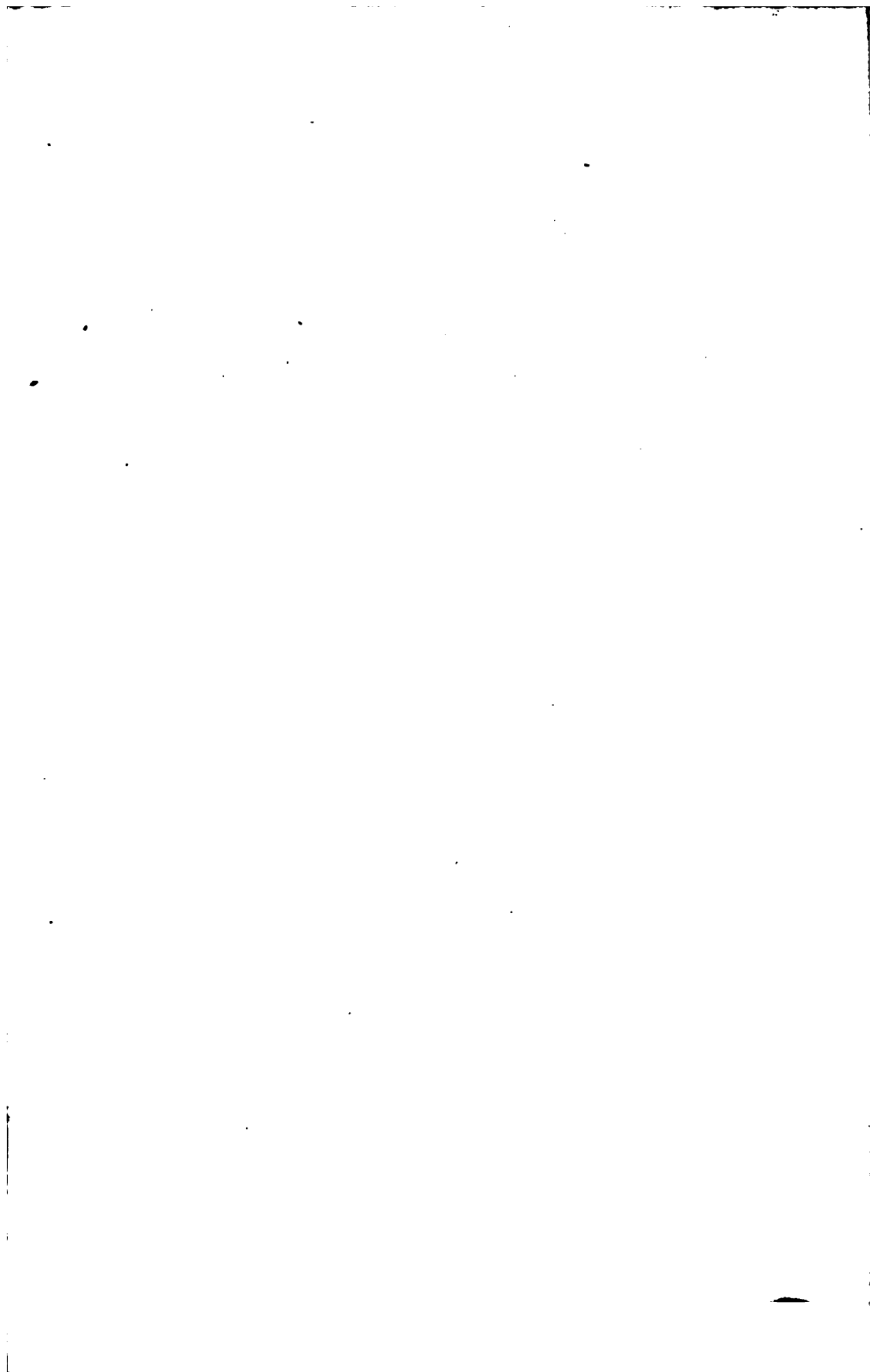
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